DOCUMENT RESUME

ED 315 978 EC 222 731

AUTHOR Rhys, Jane, Ed.; Hodges, Harold, Ed.
TITLE State Plan for Special Education Effective July 1, 1989.
INSTITUTION Kansas State Dept. of Education, Topeka. Special Education Administration Section.
PUB DATE 13 Jun 89
NOTE 174p.
PUB TYPE Legal/Legislative/Regulatory Materials (090) -- Guides -.Non-Classroom Use (055)

EDRS PRICE MF01/PC07 Plus Postage.
DESCRIPTORS *Administrative Policy; Compliance (Legal); Delivery Systems; *Disabilities; Educational Legislation; *Educational Policy; Educational Practices; Incidence; School Districts; Special Education Teachers; *State Legislation; *State School District Relationship; *State Standards
IDENTIFIERS *Kansas

ABSTRACT

The Kansas State Plan for Special Education is designed to trace specific special education issues through statute, regulation, and policy and to translate each issue into operational terms which can be followed by local education agencies. The informational format divides the plan into three major sections. The introductory section presents current data on the number of professional and paraprofessional teaching positions and the number of students being served by special education in Kansas. The section on State Department operations outlines how special education is administered at the State level. General assurances are given and requirements defined. The section on local education agency operations provides statute, regulation, and procedural guidelines for the local level. Administrative and procedural responsibilities of local education agencies are detailed covering such areas as local comprehensive plans, the least restrictive environment, cooperative agreements, reimbursement and finances, exceptional children enrolled in private schools, procedural due process, confidentiality, and class size and case loads. Appendices provide explanations of state policy concerning: the extended school year; a free appropriate education; the least restrictive environment; and suspension/expulsion of handicapped students. A glossary is provided as is a chart of maximum caseload by delivery model for 1989-90. (Author/DB)

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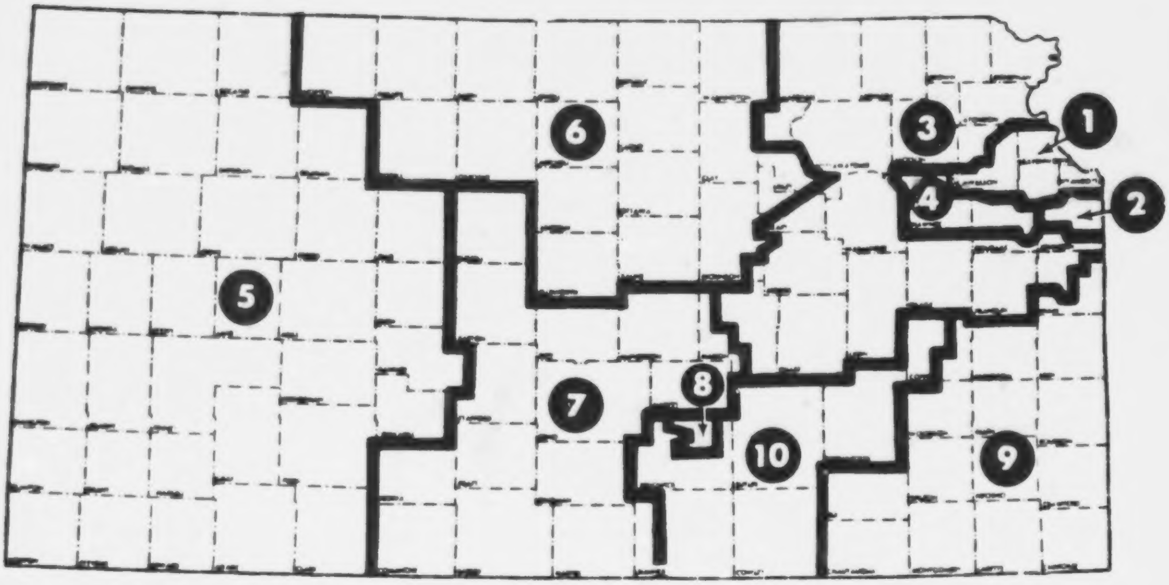

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Est. Unit Cost: $2.85
Copies Printed: 2,000

State Plan
for
Special Education
Effective July 1, 1989

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Incorporation of Article 12 of Kansas Administrative Regulations in the State Plan for Special Education

Under K.S.A. 72-963 the State Board of Education is authorized to adopt regulations for the administration of the special education for exceptional children act and . . . to implement and give effect to the state plan. Any regulations adopted by the State Board are to be incorporated by reference in the State Plan for Special Education. K.A.R. 91-12-22 *et seq.* are hereby incorporated by reference and made a part of this Plan.

ABSTRACT

The *Kansas State Plan for Special Education* is a document designed to trace specific special education issues through statute, regulation, and policy. The plan further translates each issue into operational terms which can be followed by a local education agency.

The informational format divides the plan into three major sections. The three sections are: 1) Background and Needs, 2) State Department Operations, and 3) Local Education Agency Operations.

Background and Needs

This introductory section gives a brief overview of the commitment Kansas has had to exceptional children since 1949. Current data are reported in this section on the number of professional and paraprofessional teaching positions and the number of students being served by special education in Kansas.

State Department Operations

This section outlines how special education is administered at the State level. General assurances are given and requirements are defined which provide the framework of special education programs in Kansas.

Local Education Agency Operations

This section provides statute, regulation, and procedural guidelines which govern special education programs at the local level. Administrative and procedural responsibilities of local education agencies are carefully detailed.

Other Materials Available

Supplements for all categorical program areas (behavior disorders, early childhood handicapped, gifted, etc.) and all related service areas are available upon request from the Special Education Administration Section at the Kansas State Department of Education. In addition to giving regulations involved with each categorical area, a discussion of procedure, program quality, and specific "how to" information is given which has not been spelled out by regulation. More complete details of program curriculum and further procedural guidelines are found in the following expanded documents:

Assessment Tools for Use With the Severely Multiply Handicapped-Deaf/Blind (December, 1986)

Guidelines for Audiology and Hearing Screening (August, 1986)

Guidelines for Training, Utilization, and Supervision of Paraprofessionals and Aides (June, 1987)

Kansas Guidelines for Identifying Children and Youth With Specific Learning Disabilities (February, 1987)

Speech/Language Guidelines for Case Selection and Prioritizing Pupils for Participation in Programs/Services (July, 1984)

State Guidelines for Programs for the Blind and Visually Impaired (August, 1986)

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BACKGROUND AND NEEDS

BACKGROUND AND NEEDS

The commitment of the state of Kansas to the educational welfare of exceptional children is longstanding. Since 1949, when a special education division was created within the Department of Education, steady progress has been made in extending special education services to both handicapped and gifted children. In Fiscal Year 1952, nineteen classes for the mentally retarded and sixty programs for homebound instruction received State reimbursement from the first $80,000 appropriation of State special education funds. In Fiscal Year 1988, $78,849,930 was distributed to 5,456.76 FTE special educational program units for children in all categories of exceptionality. Additionally, over twelve million dollars of Federal funds were allocated to programs for special education students.

Until 1969, legislation regulating the establishment of special education programs was permissive. The first legal mandate (K.S.A. 72-933) required school districts to provide educational services for developmentally disabled children and youth by 1974. The mandate and implementation date were unchanged by the Special Education for Exceptional Children Act of 1974, which revised and recodified the special education laws. Special education programming for all handicapped children and all gifted children is now mandatory (K.S.A. 72-966).

It is the duty of the Kansas State Department of Education annually to review the progress or lack of progress made toward implementing the mandates of K.S.A. 72-933 and K.S.A. 72-966. In order to fulfill this responsibility, the Department makes projections to estimate the number of exceptional children who may require special education services. These data are based upon current Kansas population forecasts and a prevalence rate (12.2 percent) which has been proven in State and national studies to approximate the percentage of the school age population which might be classified as exceptional.

Local education agencies report annually the actual number of children within each category who are receiving special education and related services. Comparison of these data with prevalence estimates provides one index by which progress toward provision of full special education services may be judged. It should be noted that local education agencies' End-of-Year Reports represent a duplicated head count. Children receiving multiple services may be counted in two or more categories. In addition, children moving from one district to another or from one special program to another may be counted more than once.

Using known, average pupil/teacher ratios, prevalence estimates can be translated into personnel needs and can serve as guides for State and local planning. Meaningful needs assessment, however, must be a local endeavor. Research has shown that there is significant difference from area to area in the prevalence of the various types of exceptionalities. Variables, such as the age ranges, geographic distribution, and degrees of exceptionality of a specific population, will influence the types and numbers of special education programs needed. Therefore, each local education agency is responsible for conducting an ongoing program which accurately identifies the types and numbers of children requiring special education and defines the resources needed to serve these children. Local boards of education are responsible for the provision of adequate resources, human and other, to provide appropriate special education and related services to all exceptional students within their jurisdictions.

Table I and Table II contain data reported by local education agencies on the numbers of special education professionals and paraprofessionals (in full-time teaching equivalencies) employed in Fiscal Years 1987 and 1988 and the number of budgeted vacancies by program area as of November 1988. When determining the amount of Special Education Services Aid (Categorical Aid), the number of paraprofessionals shown on Table II is counted as 0.4 FTE of a professional position.

Table III contains data showing the number of exceptional children receiving special education services by categorical area. These data are based on the Fiscal Year 1988 public school enrollments and the unduplicated child counts required under P.L. 94-142 and P.L. 89-313.

The first special education State statute passed in 1949 created a division within the Kansas State Department of Education for the promotion, direction, and supervision of special education. The powers and duties that were delegated to the Division of Special Education under the K.S.A. 72-963 are transferred to the State Board of Education under the current statutory authority of the revised special education statute. In the past, special education operation at the State level has carried out the provisions of the 1949 statute, namely *to promote, direct, and supervise education of exceptional children in the schools of Kansas.* It has not functioned solely as a monitorial and inspectional arm of the Kansas State Department of Education, but rather it has played a leadership and promotional role in the education of exceptional children.

In accordance with the requirements of the new legislation, this document presents the State Plan for providing equal educational opportunity to all Kansas children who are unable to profit from ordinary instructional methods or regular public school classes by reason of unique characteristics which affect learning. This Plan incorporates the requirements of K.A.R. 91-12-22 *et seq.* Included are minimum standards in order to assure that special education services meet the needs of the children for whom they are designed. The Special Education Administration Section, Kansas State Department of Education, in consultation with the State Advisory Council for Special Education, has prepared this Plan for the State Board of Education. Input for this revision of the Plan has also been received from local education agencies in the state. The State Board of Education is authorized to amend the Plan from time to time (K.S.A. 72-963). Suggestions regarding changes to the Plan are solicited by the State Board of Education and should be transmitted through the Commissioner of Education.

In administering this Plan, standards and guidelines for program operation have been developed. In individual programs with unique needs or circumstances within or beyond the scope of these guidelines, specific cases may be referred for review to the Special Education Administration Section. Consultative services are offered as a part of the supervisory program. In addition, liaison has been established with State and Federal institutions, associations, and organizations, as well as other professional and lay groups.

TABLE I

Professional Teaching Positions

	FY 1987 Actual	FY 1988 Actual	Budgeted Vacancies as of December 1988
Gifted	376.70	367.76	6.50
Hearing Impaired	64.29	61.93	10.00
Learning Disabled	847.29	827.54	10.00
Behavior Disorders	411.10	417.78	18.60
Physically Impaired	14.50	15.70	.00
Semi-Dependent	135.30	130.93	2.00
Semi-Independent	335.34	313.53	7.00
Severely Multiply Handicapped	90.79	84.72	12.00
Speech/Language	430.92	431.86	15.40
Visually Impaired	19.70	22.56	1.10
Early Childhood Handicapped	92.84	100.86	6.30
Homebound/Hospitalized	18.00	10.20	.60
Interrelated	621.98	622.87	6.20
Adaptive Physical Education	27.60	29.33	2.00
Audiologists	16.90	16.93	1.30
Counselors	20.00	17.40	1.00
Nurses	38.27	39.03	1.00
Occupational Therapists	52.98	54.49	8.00
Physical Therapists	32.10	34.81	5.10
School Psychologists	322.62	327.14	14.70
School Social Workers	106.18	105.97	6.00
Special Education Instructional Materials Centers	25.27	23.33	2.50
Special Education Administrators	97.16	93.24	1.50
Other*	82.20	130.30	1.00
TOTAL	4,280.03	4,280.21	139.80

* Other includes such personnel as vocational special needs, art therapy, music therapy, recreation therapy, dance movement therapy, parent counseling and training, and work/study.

TABLE II

Paraprofessional Teaching Positions

	FY 1987 Actual	FY 1988 Actual	Budgeted Vacancies as of December 1988
Gifted	81.46	82.17	1.00
Hearing Impaired	76.13	81.92	1.00
Learning Disabled	451.15	398.97	2.00
Behavior Disorders	322.39	318.51	3.00
Physically Impaired	27.80	27.75	.00
Semi-Dependent	181.32	179.81	1.00
Semi-Independent	246.80	232.62	4.00
Severely Multiply Handicapped	178.94	169.48	.00
Speech/Language	118.68	123.52	1.00
Visually Impaired	19.18	15.48	1.00
Early Childhood Handicapped	136.64	148.82	5.50
Homebound/Hospitalized	5.00	.00	.00
Interrelated	476.72	504.04	1.00
Adaptive Physical Education	9.50	7.74	.00
Audiologists	9.30	9.84	.00
Counselors	1.80	2.00	.00
Nurses	1.00	2.00	.00
Occupational Therapists	23.89	23.61	.00
Physical Therapists	24.85	29.17	.00
School Psychologists	19.44	14.50	.00
School Social Workers	15.40	14.70	1.00
Special Education Instructional Materials Centers	54.14	52.72	.00
Special Education Administrators	33.78	15.45	.00
Other*	43.50	56.40	.00
TOTAL	2,558.81	2,511.22	21.50

* Other includes such personnel as vocational special needs, art therapy, music therapy, recreation therapy, dance movement therapy, parent counseling and training, and work/study.

TABLE III

Number of Students Receiving Special Education in Fiscal Year 1988

	FY 1988 Number of Students in Kansas Receiving Special Education by Exceptionality Source: Oct. 1 P.L. 89-313 Count and Dec. 1 P.L. 94-142 Count	FY 1988 Percent of Kansas School Enrollment Receiving Services [a]	FY 1988 Number of Students in U.S. Receiving Special Education by Exceptionality (Student count reported for P.L. 94-142 and P.L. 89-313)	FY 1988 Percent of National Enrollment Receiving Special Education [b]
Behavior Disorders	4,400	.976%	374,306	0.96%
Deaf/Blind	61	.014%	1,444	0.00%
Educable Mentally Handicapped	4,877	1.082%	Not Reported	Not Reported
Hearing Impaired	702	.156%	56,807	0.14%
Learning Disabled	16,931	3.755%	1,937,254	5.01%
Mentally Retarded	[6,175] [c]	[1.370%] [c]	599,448	1.37%
Physically and Other Health Impaired	877	.195%	93,110	0.23%
Severely/Multiply Handicapped	710	.157%	78,697	0.18%
Speech/Language Impaired	12,934	2.868%	954,884	2.59%
Trainable Mentally Handicapped	1,298	.288%	Not Reported	Not Reported
Visually Impaired	257	.059%	22,812	0.05%
TOTAL HANDICAPPED	43,047	9.548% [d]	4,110,844 [d]	10.54% [d]
Gifted	12,175	2.700%	Not Reported	Not Reported
TOTAL EXCEPTIONAL	55,222	12.248% [d]	Not Reported	Not Reported

[a] Based on FY 1988

State Public School Enrollment	421,112
Private School Enrollment	28,521
State School/Institution	1,212
	450,845

[b] Based on FY 1988 National Total School Age Enrollment

Public School Enrollment	40,024,296
Private School Enrollment	5,600,000 (estimated for FY 1988)
	45,624,296

[c] Sum of EMH and TMH categories

[d] Note: Due to rounding, column will not total.

STATE DEPARTMENT OPERATIONS

STATE DEPARTMENT ADMINISTRATION AND SUPERVISION

DEFINITION OF EXCEPTIONAL CHILDREN

Exceptional children are defined in K.S.A. 72-962 as those who *differ in physical, mental, social, emotional, or educational characteristics to the extent that special education services are necessary to enable them to progress toward the maximum of their abilities or capacities.* Such children include the mentally retarded, specific learning disabled, gifted, hearing impaired, language impaired, speech impaired, behavior disordered, physically impaired, other health impaired, severely multiply handicapped/deaf-blind, and visually impaired. Expanded definitions of the various areas of exceptionality are provided in program supplements which may be requested from the Special Education Administration Section of the Kansas State Department of Education.

DEFINITION OF HANDICAPPED CHILDREN

'Handicapped children' means all exceptional children except those identified as gifted (K.A.R. 91-12-22(k)).

DEFINITION OF SCHOOL AGE

As required by K.S.A. 72-962, the definition of school age for exceptional children has been determined by the State Board of Education. *'School age' means from the age at which the local board of education provides educational services for non-exceptional children, to and including the school year in which the exceptional child reaches age 21 or completes a local curriculum, in accordance with the state board of education standards, whichever event occurs first* (K.A.R. 91-12-22(gg)). Schools are not required to provide special education and support services for those students reaching the age of twenty-one years before July 1 of the following school year. The school year is the same as the state fiscal year which is July 1 through June 30 (K.S.A. 72-9001).

Authorization for Preschool Programs

Local education agencies may, and are encouraged to, provide programs for exceptional children prior to the age of regular schooling. Preschool programs for exceptional children have been authorized by law since 1965. This authority originated under K.S.A. 72-67, 115. *'Preschool age' means birth to school age for exceptional children. Services for preschool children are authorized but not mandated, and nothing in these rules and regulations shall be construed to prevent the use of local funds or state special educational categorical funds for preschool programs* (K.A.R. 91-12-22(bb)).

DEFINITION OF SCHOOL DAY/SCHOOL TERM

'School term' and 'school day,' for exceptional children of school age, means the period of time prescribed in K.S.A. 72-1106, and any amendments to that statute, except as otherwise prescribed in this subsection. Shorter periods of time may be prescribed for exceptional children six years of age or younger, and on an individual basis, for those children whose physical or emotional needs, or both, are such that a shorter period is advisable. Any period of time shorter than that prescribed by statute shall be determined by the individualized education program conference team of the child and shall be included and certified in the individualized education program of the child (K.A.R. 91-12-22(kk)(1)).

DEFINITION OF COMPULSORY ATTENDANCE

Article 9 of Chapter 72, Kansas Statutes Annotated requires each local education agency to provide special education services to each exceptional child of school age.

Parental Duties Regarding Compulsory Attendance

Under K.S.A. 72-977, it is the duty of the lawful custodian of any exceptional child to require the child to enroll for and attend special education services. This provision does not apply to gifted children or to their lawful custodians.

Age Requirements

Compulsory attendance requirements for handicapped students are the same as those for nonhandicapped students with two exceptions.

K.A.R. 91-12-70 mandates that the lawful custodian of any exceptional child must require the child to attend special education services until the child reaches age eighteen or completes the special education curriculum. This provision does not apply to gifted children or to their lawful custodians.

The minimum age for compulsory attendance of handicapped children in special education programs is age five for all local boards of education which provide kindergarten programs to nonhandicapped children under K.S.A. 72-1106(b). If a local board of education does not provide a kindergarten program, the minimum age for compulsory attendance is age seven.

In all instances, however, local education agencies shall make services available to exceptional children through the school year in which the child reaches age twenty-one or completes his or her special education curriculum.

Local Education Agency Enforcement of Compulsory Attendance for Handicapped Children

Effective July 1, 1986, schools have the responsibility for reporting children who are not attending school as required by law. Prior to making any report that a child is not attending school, the designated employee of the local board of education shall serve written notice by restricted mail upon a parent or person acting as a parent of the child. This notice shall inform them of the child's nonattendance and that failure of the child to attend school without a valid excuse will result in a report being made to the Secretary of Social and Rehabilitation Services or to the County or District Attorney. The designated employee shall also document failure of the child to attend school within five school days after return of the restricted mail receipt or failure of the parent or person acting as a parent to submit an acceptable response, and make a report of nonattendance at school to the Secretary of Social and Rehabilitation Services, if the child is seven or more years of age but less than thirteen years of age. The report shall be made to the County or District Attorney if the child is thirteen or more years of age but less than sixteen years of age.

Under the Special Education for Exceptional Children Act, the lawful custodian (parent or person acting as a parent) of a handicapped child has the responsibility to enroll the child in special education services and to require the child to attend special education services until the child reaches age eighteen or completes the special education curriculum. If the lawful custodian of a handicapped child fails to have the child attend special education services, the designated employee of the board of education shall (1) follow the procedures in (a), (b), and

(c) of the preceding paragraph; or, (2) if the situation warrants, file a report with the Secretary of Social and Rehabilitation Services, alleging that the child may be a child in need of care pursuant to Kansas Code for Care of Children.

RESPONSIBILITIES OF THE STATE BOARD OF EDUCATION

The State Board of Education is established by the Kansas Constitution and is charged with responsibility for the . . . *general supervision of public schools, educational institutions, and all the educational interests of the state, except educational functions delegated by law to the state board of regents* (Kansas Constitution, Article 6, amendment adopted at General Election, November, 1966). The State Board of Education is authorized to be the controlling and supervising board for the Kansas State School for the Deaf (76-1001a) and the Kansas State School for the Visually Handicapped (76-1101a). Under K.S.A. 72-970 general supervision of special education services for exceptional children housed and maintained in State institutions is given to the State Board of Education. Therefore, in providing programs for exceptional children in State schools and institutions, the State schools and the Special Education Administration Section shall show cooperative effort and coordination in educational program planning.

The State Board of Education's responsibilities specific to the administration and supervision of special education are cited in K.S.A. 72-963.

The state board may adopt rules and regulations for the administration of the special education for exceptional children act and shall adopt rules and regulations necessary to implement and give effect to the state plan. Rules and regulations adopted by the state board to implement and give effect to the state plan shall include the following:

- *(a) Provisions for the establishment, maintenance, and supervision of special education services in school districts and state institutions.*
- *(b) Prescribed courses of study and curricula necessary to meet requirements for approval of special education services.*
- *(c) Criteria for screening, diagnosis and certification of exceptional children including physical, educational and psychological examinations. No child from a home in which English is not the principal language may be assigned to special education services for exceptional children until such time that the child has been given, in the principal language used in the home of the child, examinations reasonably related to the child's cultural environment.*
- *(d) Definitions of the various categories of exceptionality.*
- *(e) Implementation dates of special education services for the various categories of exceptionality.*
- *(f) Standards for special education services to be received by each of the several categories of exceptional children.*

Rules and regulations adopted by the state board to implement and give effect to the state plan shall be incorporated by reference in the state plan.

Article 12 of Kansas Administrative Regulations sets forth the rules and regulations adopted by the State Board.

NAME AND DESIGNATION OF STATE BOARD

The State Board of Education has the major responsibility for the administration of the *State Plan for Special Education* and for the general supervision of local education agencies.

EXECUTIVE OFFICER DESIGNATION

The Commissioner of Education is the executive officer of the State Board of Education and is appointed by that Board. The Commissioner is the administrative officer of the State Board of Education in all educational matters and functions under its jurisdiction. Under the policies and procedures adopted by the State Board of Education, the Commissioner directs the work of all persons employed in the Kansas State Department of Education.

The Assistant Commissioner of Education Services is responsible to the Commissioner of Education and the State Board of Education. The Assistant Commissioner administers policies approved by the State Board of Education for the organization and operation of instructional programs, including the Special Education Administration Section.

The Director of the Special Education Administration Section is the chief administrator of special education and is responsible through the Assistant Commissioner of Education Services to the Commissioner in regard to related policies and procedures approved by the State Board of Education.

RESPONSIBILITIES OF THE SPECIAL EDUCATION ADMINISTRATION SECTION

Through authority delegated by the State Board of Education, the Special Education Administration Section is responsible for developing and recommending standards for the implementation and maintenance of special education services and for supervising these services in school districts, private facilities, and State institutions. All Federal programs for exceptional children should be coordinated with the Special Education Administration Section. State institutions include both those under the authority of the State Board of Education and State Department of Social and Rehabilitation Services as specified in K.S.A. 72-961 through 72-963. These two laws require that the Special Education Administration Section maintain liaison with other programs working with exceptional children and assume leadership in implementing an interagency approach. The mission of the Special Education Administration Section is to provide leadership at the State and local levels in implementing full and appropriate educational services to all exceptional children. Programs of the Special Education Administration Section include the following:

Behavior Disorders,
Gifted,
Hearing Impaired,
Interrelated,
Learning Disabilities,
Physically and Other Health Impaired,
School Psychology,
School Social Work,
Semi-Dependent (Trainable Mentally Retarded),
Semi-Independent (Educable Mentally Retarded),
Severely Multiply Handicapped/Deaf-Blind,
Special Education Administration,
Special Education Instructional Media,
Speech and Language Development, and
Visually Impaired.

PHILOSOPHY

The State Board of Education adopted in 1984 and revised in 1985 *A Strategic Plan for Kansas Public Education for the Year 2005.* Two primary strategic goals will guide the efforts of the State Board of Education for the next five years: (1) To increase the quality and excellence of achievement of Kansas education and (2) To extend the outreach of local education programs and the development of learning communities which serve the needs of all citizens regardless of race, sex, national origin, geographic location, age, socioeconomic status, or handicapping condition. The first goal is directed toward the improvement of current education programs and institutions. The second goal is directed toward the development of learning communities where the school is a resource for the learning needs of all citizens in the state. Accomplishment of these goals is expected by the year 2000.

The Special Education for Exceptional Children Act defines exceptional children as those who *differ in physical, mental, social, emotional, or educational characteristics to the extent that special education services are necessary to enable them to progress toward the maximum of their abilities or capacities,* and mandates the provision of educational opportunities which will contribute to the optimal development of each such child in the state. This definition and this mandate include children with significant learning assets as well as those with learning problems or handicaps.

FREE APPROPRIATE PUBLIC EDUCATION

See Appendix B, Free Appropriate Public Education.

COMPREHENSIVE SYSTEM OF PERSONNEL DEVELOPMENT

The Special Education Administration Section, as a part of the Education of All Handicapped Children Act (34 CFR 300.380 through 300.387), must ensure *that ongoing inservice training programs are available to all personnel who are engaged in the education of handicapped children.* This regulation includes special education personnel as well as all district administrative and teaching personnel *engaged in the education of handicapped children.*

The Special Education Administration Section takes an active leadership role not only through the monitoring of inservice provided by LEAs but also through the sponsorship of many regional and statewide inservice activities. During the 1988-1989 school year, the section sponsored numerous state, regional, and local inservice workshops. Through these workshops administrators, teachers, paraprofessionals, parents, and others received training in the education of exceptional students.

GOALS OF STATE ADMINISTRATION

In order that the above philosophy may be implemented, the Kansas State Department of Education's goals for special education are as follows:

1. To provide leadership and assistance in special education program planning and development to ensure full implementation of the Special Education for Exceptional Children Act and the Education for All Handicapped Children Act. Emphasis shall be given to innovative and/or improved procedures for providing quality special education services and to collaborative efforts among other public and private agencies.
2. To monitor and/or supervise all educational programs for exceptional children, regardless of funding source or facility in which these programs are provided.

3. To develop and establish evaluation procedures at both State and local levels, in order to facilitate planning, programming, and budgeting.
4. To develop and implement a comprehensive system of personnel development for persons who work with exceptional students.
5. To administer State and Federal programs for the education of exceptional children.

STATE ADVISORY COUNCIL FOR SPECIAL EDUCATION

To provide for representative and statewide participation in decision-making related to the education of exceptional children, a State advisory council was established in the Special Education for Exceptional Children Act. *'State special education advisory council' means a lay and professional council consisting of nine members appointed by the state board of education. This council shall offer advice, consultation and recommendations to the state board on matters concerning special education services for exceptional children* (K.A.R. 91-12-22(ss)).

Council Functions

One of the major functions of the advisory council is to serve as a liaison between the statewide populace and the Kansas State Department of Education. To effectively represent the citizens of Kansas, council members should be knowledgeable and informed relative to public and private interests in special education for exceptional children. Specifically, Section 300.652, 34 CFR requires that the State advisory panel shall do the following:

(a) *Advise the State educational agency of unmet needs within the State in the education of handicapped children;*

(b) *Comment publicly on the State annual program plan and rules or regulations proposed for issuance by the State regarding the education of handicapped children and the procedures for distribution of funds under this part* (Subpart F of 34 CFR, Part 300); *and*

(c) *Assist the State in developing and reporting such information and evaluations as may assist the Commissioner* (U.S. Secretary of Education) *in the performance of his responsibilities under Section 618* (of P.L. 94-142 as amended by P.L. 99-457).

Consumer communication with the council is encouraged and may be accomplished through contact with any council member or the secretary to the council. Local education agency personnel, school patrons, students, lay community persons, private sector, public and private agencies, and educators at all levels are encouraged to submit issues, questions, and problems to the council for consideration and action.

In addition, the State advisory council for special education shall do the following: *(1) Advise and consult with the State Board in the preparation and administration of the State Plan and in the formulation and review of rules and regulations adopted pursuant to this act; (2) consider any problems presented to it by the State Board, and give advice thereon; and (3) make recommendations to the State Board concerning special education services. In addition, the advisory council shall have and perform such powers, functions and duties as are specified by law* (K.S.A. 72-964(b)).

Council Membership

All appointments to the advisory council are made for a fixed term not to exceed three years. When a vacancy occurs for any reason other than the expiration of the term of a member, the

State Board will appoint a successor for the remainder of the unexpired term. The State director for special education serves as secretary to the council.

The State Board appointment policies for this advisory council include the following:

1. Advisory council members will serve no more than two full terms (three years per term);
2. All geographical areas will be represented where feasible;
3. As required by K.S.A. 72-964, membership shall be representative of community, organizational, and educational groups interested in the education of exceptional children. Representation will include —
    - a. Teacher training institutions,
    - b. General school administration,
    - c. Special education administration,
    - d. Private schools,
    - e. Teachers of exceptional children,
    - f. Handicapped individuals,
    - g. Advocacy groups,
    - h. Local boards of education, and
    - i. Parents of exceptional children.

Because the statute limits the size of this council, individual members are often chosen to represent more than one field or special interest group.

Council Procedures

The State Advisory Council for Special Education was created to act in an advisory capacity to the State Board of Education. Further, Section 300.653, 34 CFR requires that:

(a) The advisory panel shall meet as often as necessary to conduct its business.

(b) By July 1 of each year, the advisory panel shall submit an annual report of panel activities and suggestions to the State educational agency. This report must be made available to the public in a manner consistent with other public reporting requirements under this part.

(c) Official minutes must be kept on all panel meetings and shall be made available to the public on request.

(d) All advisory panel meetings and agenda items must be publicly announced prior to the meeting, and meetings must be open to the public.

(e) Interpreters and other necessary services must be provided at panel meetings for panel members or participants.

(f) The advisory panel shall serve without compensation but the State must reimburse the panel for reasonable and necessary expenses for attending meetings and performing duties.

The State has elected to maintain a small advisory council (e.g., nine members). Therefore, it will be necessary for the council to take steps to ensure that it (1) consults with and receives input from various consumer and special interest professional groups and (2) establishes committees for particular short-term purposes composed of representatives from those input groups.

STATE APPROVAL OF SPECIAL EDUCATION PROGRAMS

DEFINITIONS

Categorical Service Unit

'Categorical service unit' means a plan for the delivery of special education services under which exceptional children within one of the categorical areas of exceptionality are provided services in the same educational program (K.A.R. 91-12-22(d)). While instruction focuses on commonly identified needs of the categorical grouping, attention is given to the various degrees of need and age levels of individual learners. Standards specific to the various areas of exceptionality are found in the appropriate program area sections of this Plan. Certification requirements for instructional personnel are set forth in the *Regulations for Certifying School Personnel and Accrediting Institutions and Approving Programs Offering Teacher Education.* Together these requirements shall constitute the basis for State approval.

Youth Center School

'Youth center school' means a school operated at a state youth center to provide education services to youths admitted to the institution (S.B.R. 91-34-1(m)).

Interrelated Service Unit

'Interrelated service unit' means a plan for the delivery of special education services under which exceptional children with similar learning characteristics and needs, but from two or more categories of exceptionality, are provided services in the same educational program (K.A.R. 91-12-22(s)). Instruction takes place in a multi-categorical setting with a teacher trained in at least one of the exceptionalities served. Instruction focuses on the common learning characteristics or curricular needs of the students, with individual consideration for needs arising from specific categorical characteristics. Standards specific to interrelated service units are found in this section of the Plan.

Special Purpose School

'Special purpose school' means any school for exceptional children which is operated by a private, nonprofit corporation or a public or private institution, within or without the state of Kansas, and at which special education services, meeting the requirements of these regulations and S.B.R. 91-33-1 et seq., are provided (K.A.R. 91-12-22(pp)).

Developmental Preschool

'Developmental preschool' means a school, operated by a private nonprofit corporation or foundation, that serves handicapped children under school age (K.A.R. 91-12-22(g)).

INTRODUCTORY STATEMENT

The State Board is charged with responsibility for ensuring the availability of appropriate special education services to all exceptional children in Kansas. As required by K.S.A. 72-

963, standards and criteria have been set forth in this Plan. Special education programs provided by local education agencies must meet these standards and criteria in order to —

1. Provide the services mandated by K.S.A. 72-933, K.S.A. 72-966, and P.L. 94-142;
2. Qualify for State and Federal special education funds; and
3. Retain State accreditation.

The following procedures have been established to clarify State approval procedures and to assist local education agencies in fulfilling their responsibilities.

CRITERIA FOR STATE APPROVAL

General Criteria

Sufficient educational alternatives must be provided to meet the diverse needs of all children with various types and degrees of exceptionality. Special education service units may be organized categorically or across categories and may be delivered through numerous delivery models. State approval of any special education service unit is contingent upon:

(1) The employment of personnel properly certificated and endorsed in their assigned categories of exceptionality and level of instruction;
(2) compliance with pupil-teacher ratios;
(3) the development and offering of curricula appropriate to student needs;
(4) facilities comparable to those provided non-exceptional children;
(5) compliance with identification, individualized education program, placement, and review procedures;
(6) appropriate licensed or certificated support personnel;
(7) other necessary related services; and
(8) approvable delivery model or models (K.A.R. 91-12-23(a)).

Approvable Delivery Models

Compliance with the least restrictive environment principle requires that each local education agency provides a variety of placement options sufficient to meet the needs of children with all types and degrees of exceptionalities. K.A.R. 91-12-23(a)(8) specifies: *The following plans for delivering special education services may be approved:*

(A) Home-based instruction;
(B) regular education with support services only;
(C) consulting teacher plan;
(D) itinerant teacher plan;
(E) resource room plan;
(F) self-contained special class;
(G) special day school;
(H) residential school;
(I) hospital instruction; or
(J) homebound instruction.

With the exception of home-based and homebound instruction, these models may be implemented through either categorical or interrelated service units. Combinations of delivery models also may be approved.

These plans are described in the LEAST RESTRICTIVE ENVIRONMENT section of this Plan.

Request for Approval of Innovative Delivery Models

Local education agencies are encouraged to modify existing models and to develop new ones, such as specialized support systems to maintain moderately handicapped children in the regular school setting.

Prior approval of innovative delivery models is required. *Local education agencies shall submit a written plan to the special education administration section for review and approval, or disapproval, of innovative delivery models for which there are no standards. Each plan shall include:*

(1) The name by which the model may be identified;
(2) a statement of the specific purpose or special education need or needs to which this delivery model will respond;
(3) a description of the type of special education services to be provided and the projected length of time the services will be provided;
(4) the procedures for selecting students to be served;
(5) the number of children to be served; and
(6) the instructional level or levels to be included (K.A.R. 91-12-23(b)).

This plan shall become a part of or an addendum to the Local Comprehensive Plan for Special Education.

STANDARDS FOR HOMEBOUND AND HOSPITAL INSTRUCTION

Homebound and Hospital Instruction

Homebound and hospitalized instruction is a delivery system, not a separate category of exceptionality. This delivery system provides educational service outside the school setting for:

- An exceptional student who temporarily cannot otherwise receive instruction, or
- A physically or other health impaired student who cannot otherwise receive instruction.

State special education categorical aid shall be used for financing students receiving homebound or hospitalized instruction if they are identified as exceptional and have a current IEP. The local education agency is responsible for providing homebound or hospitalized instruction to regular education students even though State reimbursement is not available for this population.

Homebound services to a student with behavior disorders are limited by K.A.R. 91-12-55(c)(4) to no more than two months.*

Pregnancy is not accepted as a handicapping condition. Homebound services may not be reimbursed for a pregnant student unless she is an identified special education student.

Local education agencies may employ appropriately certified special education personnel for home or hospital instruction on a full-time or part-time basis. *Only individuals with a Kansas teaching certificate that is valid at the level of instruction to be provided shall provide*

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* Supplements for all categorical program areas and all related areas are available from the Special Education Administration Section of the Kansas State Department of Education.

homebound and hospital instructional services (K.A.R. 91-12-24a(e)). Due to motor vehicle regulations, homebound services for driver education must be provided by a teacher certified to instruct driver education.

Part-time Services

A homebound or hospital program is funded as a part-time program when the individual providing direct instruction is contracted by the LEA on an hourly basis.

Each local education agency shall complete and submit a cumulative state department of education quarterly report that identifies specific information regarding individual students receiving homebound and hospital instruction (K.A.R. 91-12-24a(d)). Application for homebound or hospital services received by the State Department of Education after June 1 of the fiscal year will not be eligible for reimbursement.

Any teacher certified in the content areas in which the child is enrolled, or any teacher who functions as a coordinator between the child and the child's subject area teachers may provide part-time instruction (K.A.R. 91-12-24a(e)(1)). An instructor certified as a substitute teacher may work only as a coordinator at the appropriate level. Only teachers or coordinators providing direct services to homebound or hospital students are eligible to generate reimbursement to the local education agency. The number of instructional hours for which a district will claim reimbursement will be translated into full-time teacher equivalencies. (See REIMBURSEMENT AND FINANCES section.)

Full-Time Services

Full-time homebound or hospital programs receive State reimbursement on a categorical basis. The State categorical unit reimbursement may be for any percentage FTE.

Teachers in this program must be certified at the level of instruction, and *Each individual who is reimbursed as a full-time teacher in a homebound or hospital program shall have completed a program that qualifies the individual to be fully certified in at least one of the special education areas identified in S.B.R. 91-1-93a(a)(1) and any amendments to that rule and regulation* (K.A.R 91-12-24a(d)(2)).

STANDARDS FOR INTERRELATED SERVICE UNITS

Purpose

Interrelated service units allow exceptional children with different handicapping conditions to be grouped in accordance with their similar learning styles rather than in accordance with traditional categories. In implementing interrelated service units, local education agencies will give emphasis to the following:

1. Minimizes the negative effects of labeling children, and
2. Allows more special education students to remain in their district or school of residence.

Identification and Placement

Before any child is placed in an interrelated service unit, the comprehensive evaluation and individualized education program procedures prescribed in K.A.R 91-12-40 and 91-12-41 shall be used:

(1) To document each child's need for special education and related services;
(2) to determine whether placement in an interrelated service unit best meets the needs of each child; and

(3) *to establish the primary category of exceptionality of the child for the purposes of reporting and establishing eligibility for state and federal funding* (K.A.R. 91-12-25(a)).

Criteria for State Approval

K.A.R. 91-12-25(b) states: *Before any local education agency establishes and operates an interrelated service unit, it shall submit to the special education administration section for approval, a written plan describing in detail the services to be offered in the unit. The plan for interrelated services shall be included as a part of the local comprehensive plan and shall be reviewed and revised as required by the special education administration section.* (See CONTENT OF LOCAL COMPREHENSIVE PLAN section.) *Approval of interrelated service units shall be contingent upon fulfilling the following requirements:*

(1) *A systematic and ongoing evaluation of program and product effectiveness shall be conducted pursuant to K.A.R. 91-12-34(a)(2) and (9);*

(2) *teaching personnel with full endorsement in one of the categories of exceptionality being served in the interrelated service unit shall be assigned to the unit; and*

(3) *provisions shall be made for providing instructional personnel with assistance from appropriately trained categorical specialists or support personnel as necessary.*

(c) *Special purpose schools at mental health and youth center facilities shall meet class size and caseload limitations as prescribed in K.A.R. 91-12-55, Table VI.* (See CLASS SIZE/CASELOAD section.)

(d) *Class size and caseload limitations shall be established on an individual basis for any service delivery model used to provide services to children who are visually impaired, hearing impaired, physically impaired, other health impaired, or severely multiply handicapped.*

(e) *Except as otherwise provided in this subsection, the class size and caseload shall be the same as that for the categorical area with the majority of students being served under the particular delivery model being used. If four or more students in a categorical area with more restrictive class size or caseload requirements are being served, the more restrictive requirements shall apply. The maximum limitations for interrelated programs are given in Table I.**

TABLE IV*

Maximum Class Size and Caseload for Interrelated Programs

Administration Plan	*Categorical Grouping*	*Number of Paraprofessionals*	*Class Size and Maximum Caseload*
Itinerant	*BD/EMR* **	*0*	*15*
		1 or more	*18*
	BD/LD	*0*	*18*
		1 or more	*24*
	EMR/LD	*0*	*18*
		1 or more	*24*
	BD/EMR/LD	*0*	*18*
		1 or more	*24*

* Table IV is Table I in Article 12 of Kansas Administrative Regulations.

** *The chronological age or grade level span shall not exceed 4 years.*

Maximum Class Size and Caseload for Interrelated Programs

Administration Plan	*Categorical Grouping*	*Number of Paraprofessionals*	*Class Size and Maximum Caseload*
Resource	*BD/EMR ***	*0*	*12*
		1 or more	*16*
	BD/LD	*0*	*18*
		1 or more	*22* *(No more than 10 at any one time)*
	EMR/LD	*0*	*18*
		1 or more	*22*
	BD/EMR/LD	*0*	*18*
		1 or more	*22* *(No more than 10 at any one time)*
Special Classroom	*BD/EMR ***	*0*	*8*
		1	*10*
	BD/LD	*0*	*10*
		1 or more	*14*
	EMR/LD	*0*	*10*
		1 or more	*14*
	BD/EMR/LD	*0*	*10*
		1 or more	*14*
	*EMH/TMR ***	*0*	*Primary - 12* *Intermediate - 15* *Secondary - 15*
		1 or more	*Primary - 15* *Intermediate - 18* *Secondary - 20*

*** The chronological age or grade level span shall not exceed 4 years.*

PROGRAM APPROVAL PROCEDURES

The following procedures are used by the Kansas State Department of Education to approve individual special education program units and to ensure that the local education agency is implementing services for exceptional children in compliance with State and Federal laws. Both programs and procedures must be in order as a condition for State and Federal special education funding.

Local Comprehensive Plan for Special Education and Annual Survey

On October 15 of each year, each local education agency shall submit to the Special Education Administration Section its local comprehensive plan (or update thereof) for providing appropriate special education services to all exceptional children of school age residing within the district. (See LOCAL COMPREHENSIVE PLANS section.) Each local comprehensive plan is reviewed by Department staff, and a written notice of areas of deficiency, if any, is returned to the local education agency. Through this initial review, the Department staff responsible for monitoring special education programs are alerted to possible cases of noncompliance with State and Federal requirements; site visits are made as necessary.

The annual survey reports the number and type of special education programs and support services which the local education agency plans to implement in the following fiscal year. A three-year projection of programs also is included. State Categorical Special Education Funds are encumbered for the local education agency on the basis of this report.

In combination, the annual survey and the local comprehensive plan serve as the major portion of the local education agency's application for funding under Part B, Education of All Handicapped Children Act (P.L. 94-142). An approved plan or update thereof must be on file in order to receive Part B funds for that fiscal year.

Personnel Approval

In order to qualify for State categorical reimbursement, each local education agency must submit the names, social security numbers, and positions of all *special teachers*, including teachers, paraprofessionals, and support personnel. The qualifications of each person named shall be verified by the Special Education Administration Section. Updates of this list shall be submitted in September, November, February, and May. Categorical reimbursement is prorated for personnel employed after September 15.

Program Approval

Program approval is contingent not only upon the approval of personnel, but also upon compliance with the standards of K.A.R. 91-12-23 *et seq.* in regard to identification and placement procedures, class size and age range, facilities, and curricula. If, upon investigation, noncompliance is established, the local education agency shall be warned and given a time line for remedying the specific deficiencies cited. Technical assistance from the staff of the Special Education Administration Section will be made available, if requested, to assist districts in attaining approvable status. Requests for a waiver of regulations may be made in regard to class size, caseload, age or grade range, or personnel provided in K.A.R. 91-12-23 *et seq.* Any waiver granted shall be for a period not exceeding twelve months.

Requests for a waiver shall be made, in writing, to the director of the special education administration section of the department of education. The local education agency shall show good cause for the granting of such a waiver and shall present an alternative to the requirement which will ensure that the objectives of these regulations will be achieved. Written notice of the director's decision to grant or deny the request shall be given to the local education agency requesting the waiver. If the request is denied, the notice shall specify the reason or reasons for the denial of the request and advise the local education agency of the appeal procedure.

Any local education agency may appeal the director's denial of its request for a waiver to the state commissioner of education within 15 calendar days of the date written notice was sent to the local education agency. Upon receiving an appeal, an appeal committee of at least three department of education members, shall be appointed by the commissioner to review the denial of the request and to consider the information from the local education agency. The appeal process shall be completed within 30 calendar days of the appeal request from the local education agency and a recommendation shall be given to the state board of education within 15 days after the appeal process has been completed. The state board of education shall consider the recommendation at its next meeting. (K.A.R. 91-12-23(c)).

If the director grants the request for waiver, the action shall be subject to confirmation or rejection by the State Board of Education at its next meeting.

ACCREDITATION OF SPECIAL PURPOSE SCHOOLS

Kansas State Department of Education Accreditation Procedure

The Certification, Teacher Education, and Accreditation Section of the Kansas State Department of Education accredits special purpose schools.

On-site visits will be made by the Special Education Administration Section to determine eligibility both for compliance with Article 12, the State Regulations for Special Education and for accreditation as a special purpose school. The criteria set forth in Article 33, the State Regulations for Accrediting Special Purpose Schools, shall be the basis for accreditation. Recommendations for or against accreditation shall be filed with the Certification, Teacher Education, and Accreditation Section. The recommendations will be forwarded to the State Board of Education for action.

Kansas State Department of Education Approval

To be approved as a special purpose school, a school must be accredited by an agency of the state of Kansas or by the state in which the private school or institution is located. The curriculum must meet criteria set by the Special Education Administration Section and approved by the State Board of Education. Such approval shall be obtained each year.

APPROVAL OF DEVELOPMENTAL SPECIAL PRESCHOOLS

K.A.R. 91-12-27 allows for the approval of developmental preschools. *(a) Requests for approval as a developmental special preschool shall be submitted to the special education administration section.*

- *(b) To be approved, a developmental special preschool shall:*
- *(1) Meet the general criteria for state approval and the standards for early childhood handicapped services; and*
- *(2) be licensed by the Kansas state department of health and environment as a child care center.*
- *(c) Each developmental special preschool shall obtain Kansas state department of education approval before applying for federal education funds or entering into contracts or agreements with local education agencies.*

COMPLAINT PROCEDURES

There are three means or possibilities for a person, local education agency, or other agency to seek remedy in case of a grievance or complaint. The first two methods concern complaints by a local education agency or special purpose school patron. They are 1) Procedural Due Process and 2) Complaint of Noncompliance. The third method concerns complaints about Kansas State Department of Education decisions and is called 3) On-Site Compliance Review Appeal. A manual which outlines the three procedures may be obtained from the Special Education Administration Section at the State Department of Education.

Complaints or grievances which involve alleged criminal actions should not be referred to the Kansas State Department of Education. These are matters which are more properly referred to the courts for a remedy or judgment.

Procedures for handling these three types of complaints are as follows:

Procedural Due Process Issues

Individual procedural due process issues are those concerned with (1) special education and/or related services being provided or denied to a specific child or (2) procedural due process for a specific child. Parents who believe that a local education agency is not fulfilling its legal responsibilities to their child may contact the Kansas State Department of Education via the toll-free WATS (1-800-332-6262). A KSDE staff member will provide to parents and school personnel —

1. Information about parent/child rights;
2. Interpretation of parent/child rights in the context of the complaint;
3. Review of appropriate placement and offerings;
4. Mediation to attempt to resolve home/school conflicts;
5. If necessary, assistance in obtaining due process or in locating and obtaining advocacy or legal services.

Complaint of Noncompliance

A complaint of procedural noncompliance occurs when a person or organization believes that a local education agency's or special purpose school's policies, practices, or procedures are an actual violation of State or Federal laws or regulations. As with procedural due process issues, parents are encouraged to contact the State Department of Education as described in the PROCEDURAL DUE PROCESS ISSUES section above. *Any person may file a written, signed complaint alleging that a local education agency is not in compliance with a state or federal law or regulation. The complaint shall state the facts upon which it is based, and shall be filed with the state director of special education, Kansas state department of education* (K.A.R. 91-12-28(a)(1)).

Charges of noncompliant local education agency policies, practices, or procedures should be made directly to the State director of special education. *(1) Upon receipt of a complaint, an investigation shall be initiated. At a minimum, this investigation shall include:*

(A) An interview with the complainant during which additional information may be gathered and specific allegations of noncompliance identified, verified, and recorded;

(B) a letter or telephone call advising the local education agency of the complaint and soliciting relevant information or documents; and

(C) a written report of findings and any corrective action or actions that are required and the time period within which each action is to be taken. This report shall be sent to the complainant and to the local education agency within 30 days of the receipt of the complaint. An on-site investigation may be conducted prior to issuing a report, if such an investigation is determined to be necessary.

(2) If a report requires corrective action by a local education agency, that agency, within 10 days of the date of the report, shall submit to the state director of special education one of the following:

(A) Documentation to verify completion of the corrective action or actions specified in the report;

(B) a written request for an extension of time within which to complete one or more of the corrective actions specified in the report, together with justification for the request; or

(C) a written notice of appeal in regard to the matter. Any such appeal shall be in accordance with subsection (c) of this regulation.

(3) If a local education agency files a request for an extension of time within which to complete one or more corrective actions required in a report, a review committee, of at least three department of education members, shall be appointed by the commissioner to

review the request and the offered justification for the extension of time. The review committee shall render a decision in regard to the request within 20 days of the date the request was received. The decision of the review committee shall be final.

(4) If a local education agency fails to respond to a report within the time allowed, the sanctions listed in paragraph (2) of subsection (c) may be invoked.

(5) If a report concludes that the local education agency is in compliance with legal requirements, the complainant may appeal the report in accordance with subsection (c) of this regulation (K.A.R. 91-12-28(a)).

Allegations of State or local policies or procedures which discriminate against handicapped individuals also may be filed with the Office of Civil Rights for investigation.

On-Site Compliance Review Appeal

The special education administration section periodically shall conduct on-site compliance reviews of each local education agency. If noncompliance is established, the local education agency shall be given a written report specifying the deficiencies found and prescribing a timeline for remedying the deficiencies. This report shall be sent to the local education agency by the special education administration section not more than six weeks after conclusion of the on-site review (K.A.R. 91-12-28(b)).

The results of any on-site compliance review will be recorded by the team chairperson. A draft copy of the on-site review report will be sent to the local education agency within six weeks after completion of the review. This draft shall identify any noncompliant practices/procedures found by the team and shall describe the corrective action(s) required. If the local education agency does not concur with the draft report, its administration should contact the Special Education Administration Section within four weeks after receipt of the report. An attempt shall be made to negotiate areas of disagreement before a final compliance report is issued. A final report shall be sent to the local education agency by the Special Education Administration Section no more than twelve weeks after the on-site review. After receiving the local education agency's response to a compliance report, follow-up visits may be made to provide the local education agency with assistance in coming into compliance or to verify that remedial steps have been taken.

K.A.R. 91-12-28(c) states: *(1)Any local education agency or complainant may appeal any compliance report prepared by the special education administration section by filing a written notice of appeal with the state commissioner of education. The notice shall be filed within 10 calendar days from the date the report was sent by the special education administration section. The notice shall specify, in detail, the basis for alleging that the report is incorrect. Upon receiving an appeal, an appeal committee, of at least three department of education members, shall be appointed by the commissioner to review the report and to consider the information provided by the local education agency, the complainant, or others. The appeal process, including any hearing conducted by the appeal committee, shall be completed within 20 calendar days from the date of receipt of the notice of appeal, and a decision shall be rendered within 10 calendar days after the appeal process is completed unless the appeal committee determines that exceptional circumstances exist with respect to the particular complaint. In such event, the decision shall be rendered as soon as possible. (2) If an appeal committee affirms a compliance report that requires corrective action by a local education agency, that agency must initiate the required corrective action immediately. If, after 5 days, there has been failure to initiate the required corrective action, the state* *department of education shall determine, and notify the local education agency of, the action that will be taken to assure compliance. Such action may include:*

(A) The issuance of an accreditation deficiency advisement under S.B.R. 91-31-2;

(B) the withholding of state or federal funds otherwise available to the local education agency; or

(C) any combination of the above actions.

(2) Any local education agency or any complainant may appeal a final determination of the state department of education to the secretary of the U.S. department of education within 30 days of the department's final action.

In those cases where nonaccreditation of a local education agency is recommended, the Commissioner shall notify the president of the local board of education, the clerk, and the superintendent no later than May 15. The local education agency shall be given an opportunity at the June meeting of the State Board to present any reasons why the school should not be denied accreditation.

FEDERAL PROGRAMS FOR SPECIAL EDUCATION

INTRODUCTORY STATEMENT

The United States government is committed to the education of handicapped children who are defined as *mentally retarded, hard of hearing, deaf, speech impaired, learning disabled, visually handicapped, seriously emotionally disturbed, crippled or other health impaired...who by reason thereof require special education and related services.* Because of this commitment, Federal legislation has been enacted to provide funds for the promotion of increased and improved educational opportunities for handicapped learners. Through certain Federal programs, State and local education agencies are given additional support both through funding and through administrative guidelines to provide special education services within the states.

SUMMARY OF FEDERAL SPECIAL EDUCATION PROGRAMS

The Federal monies received by the state of Kansas for handicapped children are used to supplement State and local funds in providing comprehensive services. The use of these funds varies with the authority as defined by law. The following Federal funds are available for the implementation or support of special education services.

1. Educational Consolidation and Improvement Act of 1981
    a. Chapter 1 retains ESEA Title I as a separate program including Section 101 — Grants to Local Education Agencies — and Section 121 — Programs for Handicapped Children.
        (1) Section 101 — Chapter 1 funds are available to schools serving areas with concentrations of children from low-income families. In Kansas, priority is given to projects which focus on compensatory reading and mathematics programs for preschool and primary age children who are educationally deprived. Chapter 1 funds may be used in designated attendance centers to provide certain special education services. In general, these services must extend beyond but not replace those required by law. In addition, certain restrictions apply regarding the selection of children and the intensity of instruction.
        (2) Section 121 — This amendment to Chapter 1 allocates funds to State institutions and child care centers which provide educational programs for handicapped children. The allocation is made on the basis of average daily attendance of those children in educational programs with consideration for the priority of needs of eligible handicapped children. Monies allocated to an agency under this act are intended to follow the child should he/she move to another special education program.
    b. Chapter 2 consolidates thirty-three former programs into a block grant which flows to the states. Eighty percent of the funds must be distributed to local school districts according to a formula based on school enrollment adjusted to

provide higher per pupil allocations for high cost students. The three general areas in which funds may be used are 1) basic skills, 2) educational improvement and support services, and 3) special projects.

2. P.L. 94-142, Education of All Handicapped Children Act — Grants to States for Education of the Handicapped, Part B.
   Local education agencies and State education agencies are eligible for Title VI-B funds to assist them in providing for the education of all handicapped children. Each state's entitlement is based on the number of handicapped children within the state who are receiving free and appropriate special education services. Since Fiscal Year 1979, 75 percent of the State's entitlement has been designated for pass-through. Funds retained at the State are awarded on a competitive basis and are intended to serve as stimulation grants.

   Title VI-B funds must be expended in accordance with the priorities of the act, that is, first for handicapped children currently receiving no educational services and second to the most severely handicapped receiving inadequate educational services. State operated schools and nonpublic schools are not eligible for Title VI-B funds. However, handicapped children attending nonpublic schools must have the opportunity to receive proportionate benefits from any Title VI-B funds received by local education agencies.

3. P.L. 91-230, Title VI, Education for the Handicapped Act, as amended
   a. Regional Education Programs for Severely Multiply Handicapped/Deaf-Blind Persons (Part C. Section 622)
      Various regional programs and services are funded for the purpose of aiding the states in programming for severely multiply handicapped/deaf-blind individuals. Through this act, funds are provided for diagnostic and educational services to eligible children.
   b. Regional Resource Centers (Part C. Section 621)
      The Mountain Plains Regional Resource Center, Logan, Utah, which serves the state of Kansas, is funded under this authority. Resource centers provide technical assistance to states in planning and implementing services to handicapped children. The emphasis is on identifying persistent problems and replicating worthwhile programs.
   c. Personnel Training (Part D. Section 631)
      This part of the act authorizes Federal grants to State education agencies and to institutions of higher education to assist them in providing inservice training for personnel in the area of special education.
   d. Preschool Incentive Grants (Part C. Section 619)
      Additional funds are available to states and local education agencies for services to preschool handicapped students. In Kansas, preschool incentive funds are flowed-through to districts or cooperatives serving preschool handicapped students.
   e. Early Childhood Programs (Part C. Section 623)
      Grants are awarded to states for the development and implementation of a state plan to provide special education and related services to handicapped children from birth to age eight.

4. P.L. 98-524 — Carl Perkins Vocational Education Act
   At least 10 percent of each state's allotment of vocational education funds appropriated for any fiscal year shall be used only for vocational education programs for handicapped persons who, because of their handicapping condition, cannot succeed in the regular vocational education program without special educational assistance or who require a modified vocational education program.

STATE ADMINISTRATION OF FEDERAL PROGRAMS FOR EXCEPTIONAL CHILDREN

Consistent with the Special Education Programs Office guidelines and the Kansas legislative study recommendations, the Kansas State Department of Education is responsible for the administration of all Federal programs provided for the education of exceptional children. The Special Education Administration Section of the Kansas State Department of Education provides a major monitoring function for all approved Federal projects concerned with the education of exceptional children. This monitoring function is carried out by various staff members with responsibilities in the area(s) of exceptionality with which the project is concerned. Project monitoring is designed to ensure compliance with adopted rules, regulations, and guidelines for special education programming.

FEDERAL PROGRAMS

Guidelines for the submission of applications and procedures for appealing applications that are not funded during the fiscal year in which they were submitted may be obtained from the appropriate section of the Kansas State Department of Education.

Any project proposal for the education of handicapped children under federal programs designed for that purpose shall be submitted to the special education administration section for review and recommendation for approval or disapproval (K.A.R. 91-12-29). It is imperative that projects are consistent with and correspond to the *State Plan for Special Education.* For specific information regarding applications and/or projects for handicapped children funded by Federal money, contact the Special Education Administration Section, Kansas State Department of Education.

STATE INSTITUTIONS AND STATE SCHOOLS

Each state institution and state school shall provide special education services for all exceptional children housed and maintained therein. All state-operated educational programs shall comply with the requirements of article 12 of agency 91 of the Kansas administrative regulations (K.A.R. 91-12-30(a)). Like other local education agencies, State institutions and each State school must develop a local comprehensive plan for special education and submit it to the Special Education Administration Section.

ACCREDITATION

Education programs housed on the campus of a State institution or State school shall meet accreditation requirements of the Kansas Department of Education in accordance with the standards set forth in K.A.R. 91-33-1 *et seq.*

ADMISSION PROCEDURES

State Institutions

Placement in the youth centers, mental hospitals, and mental retardation facilities is primarily for treatment and therapy services, and not for educational purposes. In the youth centers and, in some cases, the mental hospitals and mental retardation facilities, placement is involuntary and based on court decisions. When a child is being considered for admission, input from the child's district of residence should be solicited.

1. Youth Centers
   The procedure for admission into the Youth Center at Atchison, the Youth Center at Beloit, the Youth Center at Larned, and the Youth Center at Topeka is by commitment of the court or placement by the Secretary of Social and Rehabilitation Services.

2. Mental Hospitals
   The procedure for admission into the Larned State Hospital, Osawatomie State Hospital, Rainbow Mental Health Center, and Topeka State Hospital is outlined in the Mental Health Statutes for the state of Kansas, which permit voluntary admission and court commitments. An interdisciplinary team will determine the least restrictive environment for care and treatment within those settings.

3. Mental Retardation Facilities
   The procedure for admission into Kansas Neurological Institute, Parsons State Hospital, and Winfield State Hospital is through an appropriate area office of the Kansas State Department of Social and Rehabilitation Services. At the area office all alternatives for placement are considered. The family supervisor or chief of social services must agree that the State institution represents the least restrictive environment for meeting the individual needs before admission will be recommended.

State Schools

The Kansas State School for the Deaf and the Kansas State School for the Visually Handicapped are educational in nature. Individuals attending these schools are admitted primarily for educational training. Both visually impaired and the multihandicapped visually impaired learners between the ages of birth through and twenty-one years may receive services, either on-campus or on an out-reach basis from the State School for the Visually Impaired. Deaf or multihandicapped deaf learners between the ages of five and twenty-one years may be admitted to the State School for the Deaf.

Placement procedures for Kansas residents into the Kansas State School for the Visually Handicapped and the Kansas State School for the Deaf are set forth in K.A.R. 91-12-30(b) as follows:

(1) Admission procedures shall be initiated by the child's home school district and by the child's parent or parents.

(2) Placement of any child in the state school shall be made only after the local district and the child's parent or parents have considered local placement options.

(3) Placement shall be based on a comprehensive evaluation which indicates a need for educational services provided at the state school.

(4) If the original comprehensive evaluation and staffing are conducted by any local education agency and if one of the state schools is an alternative placement for the child, a representative or representatives from the state school shall be included in the staffing.

(5) Any local education agency may refer a child to a state school for a portion or all of the original comprehensive evaluation. In such a case, a representative or representatives from the local education agency shall be included in the staffing.

(6) Each child enrolled in a state school shall have access to the educational programs in the local school districts near the location of the school, either on a part-time or full-time basis.

(7) If differences of opinion occur as to eligibility for or placement of any child in a state school, procedural due process, as prescribed in K.S.A. 72-972 to K.S.A. 72-975, inclusive, and any amendments to these statutes, shall be followed.

(8) Personnel from the child's home school district, as well as personnel from the state school and the child's parent or parents, shall be afforded an opportunity to participate in the individual education program conference. The feasibility of returning the child to the local public school shall be considered at the annual conference.

REVIEW OF EDUCATIONAL PLACEMENT

State Institutions or State Schools

The individualized education program for each student receiving services at the State institutions or State schools shall be reviewed and revised annually in accordance with the SCREENING, EVALUATION, AND REVIEW PROCEDURES section of the State Plan. Personnel from the student's home school district as well as personnel from the State institutions or State schools and the student's parent(s) or person(s) acting as parent or education advocate are afforded an opportunity to participate in the IEP conference. The student's future educational plan, including return to the local public school, shall be considered at the annual conference.

DUE PROCESS

In order to meet accreditation requirements and to protect the rights of children and youth, each special purpose or youth center school shall address the matter of due process in the local comprehensive plan which shall provide for hearings under an impartial hearing officer as set forth in this Plan.

CONTRACTS FOR SERVICES

State Institutions

Contracts may be negotiated between State institutions and school districts as specified in K.S.A. 72-970. Contracts between State institutions and school districts shall specify each party's responsibilities for designing and providing an appropriate education program which is in compliance with Federal and State regulations. Such contracts shall be approved by the State Board of Education and the Secretary of the Kansas State Department of Social and Rehabilitation Services. The agency for which the contracted services are provided shall agree to pay all costs of said contracted services.

State Schools

State schools do not contract for educational services with local education agencies since the schools are under the jurisdiction of the Kansas State Board of Education. Students enrolled at the State School for the Visually Handicapped or the State School for the Deaf shall have access to the educational programs in the local school districts near the location of the school, either on a part-time or full-time basis.

STUDENT RECORDS

When requested, the State institutions and State schools shall provide to the Special Education Administration Section the name, type of handicapping condition(s), and school district of legal residence of all exceptional children identified and/or placed in the institution or State school.

Representatives of a child's local education agency may have access to the child's individualized education program when visiting the special purpose school at the institution or State school. If copies of the student's individualized education program or other educational records are desired by the local education agency, the parents or the lawful custodian shall be notified prior to release of the records by the State institution or school (Privacy Rights of Parents and Students 34 CFR 99.31 and 99.34).

TRANSFER OF STUDENT RECORDS

State Institutions or State Schools

The formal procedure for forwarding information during the process of returning the student to his home school district lies through channels from the State school or institution to the local school superintendent. *If a student transfers from a state school or state institution to a school district, the most recent individualized education program, as well as any additional educationally relevant information concerning the child, shall be forwarded to the receiving school district* (K.A.R. 91-12-30(c)). In these cases parental consent is not required; however, a reasonable attempt should be made to notify the parents of the student or the eligible student of the transfer of the records (Privacy Rights of Parents and Students 34 CFR 99.31 and 99.34).

Community Residential Placement Changes

When the Secretary of Social and Rehabilitation Services (SRS) is the lawful custodian or guardian of a child by court order or by voluntary relinquishment of parental rights, disclosure of the student records of the eligible child to the SRS designated agent is permitted without prior consent of the parent(s) (Privacy Rights of Parents and Students 34 CFR 99.3, 99.31, and 99.34). The involved school district of residence shall release the school records to the designated agent who has a court order or voluntary relinquishment document stating that the Secretary of SRS is the lawful custodian or guardian of the child in question. If the court order or voluntary relinquishment document is not available, the sending school district shall forward the school records to the receiving school district by registered mail. K.S.A. 72-5386 permits school districts to require the return of school property before student records are transferred. However, there is no statute which permits school districts to withhold transfer of student records because of nonpayment of fees such as school lunch fees or library fines.

EVALUATION PLAN

An evaluation plan will be sent at a later date.

LOCAL EDUCATION AGENCY OPERATIONS

SUMMARY OF RESPONSIBILITIES OF LOCAL EDUCATION AGENCIES

INTRODUCTORY STATEMENT

Across the nation, recent legislative actions and court decisions have reflected a concern for individuals whose unique needs have not been met by the public schools. Following the national trend of providing equal opportunity for all, the 1974 Kansas Legislature enacted the Special Education for Exceptional Children Act (K.S.A. 72-961 through 72-982, and K.S.A. 72-933) which requires educational services that will contribute to the development of each exceptional child in this state in accordance with his/her abilities and capacities. K.S.A. 72-5393 requires that students in private schools be given genuine opportunities for participation in public special education programs. (See EXCEPTIONAL CHILDREN ENROLLED IN PRIVATE SCHOOLS section.) Pursuant to implementation of this Act, local education agencies and other agencies concerned with the education of exceptional children are charged with specific responsibilities. The following list summarizes these responsibilities:

Each local education agency shall —

1. Initiate screening and identification procedures to determine which children within the district are in need of special education services. This shall include children who wear hearing aids. A policy for the regular monitoring of the aids shall be developed. (See LANGUAGE, SPEECH, and HEARING IMPAIRED section of this Plan for monitoring requirements.)
2. Provide free appropriate special education services for all exceptional children of school age.
3. When necessary, transport exceptional children to and from special education services.
4. Adopt due process and confidentiality policies regarding exceptional children which conform to State and Federal requirements.
5. Provide supervision and administration for special education services.
6. Submit annually to the Special Education Administration Section an update or revision of the local comprehensive plan for providing special education services and other required reports.
7. Maintain information activities which alert the public to the needs of exceptional children, their educational rights, and the availability of special education services.

ADMINISTRATIVE OPTIONS FOR PROVIDING SPECIAL EDUCATION SERVICES

In order to comply with the requirements of the Special Education for Exceptional Children Act and this Plan, each board of education shall have the authority to —

1. Establish approvable special education services. These services may be provided within its schools or in a home, hospital, or other facility.
2. Enter into cooperative agreements with one or more other school districts for special education services. (See COOPERATIVE AGREEMENTS section.)

3. Contract with another local education agency for special education services. (See CONTRACTUAL ARRANGEMENTS section.)
4. Contract with any accredited private nonprofit corporation or any public or private institution within or without the state which has approved special education services. (See CONTRACTUAL ARRANGEMENTS section.)

Each local education agency shall have access to information relative to the progress of any exceptional child who is a legal resident of the district when that exceptional child is receiving educational services through contractual arrangements with other districts or special purpose schools.

When an exceptional child is admitted to a State institution, the district of legal residence may have access to the child's IEP when visiting the special purpose school at the institution. If copies of the student's IEP or other educational records are desired by the local education agency, permission for release of the records shall be obtained from the parent or lawful custodian.

The local education agency will be notified by the State institution at least 30 days prior to placement of an exceptional child back into the home community. (An exception may be made for emergency discharges.) At that time representatives of the local education agency and the special purpose school shall review the current IEP to determine those special education services needed for successful reintegration into the community.

SCREENING AND IDENTIFICATION OF EXCEPTIONAL CHILDREN

Each local education agency shall initiate screening procedures to identify all children from birth who may have special needs and who will require a more thorough evaluation. These screening procedures shall include outreach efforts aimed at locating all unserved children, such as, children who are receiving no educational services. When screening indicates that a child may be in need of special education services, further evaluation shall be provided. In districts/cooperatives where programs are not provided for preschool age handicapped children, the local education agency shall assist the parent of the handicapped child by recommending local and statewide resources, forwarding records as needed, and reporting summary data to the State Department of Education. (See SCREENING, EVALUATION, PLACEMENT, AND REVIEW section.)

PROVISION OF SPECIAL EDUCATION SERVICES

Scope of Services

The board of education of each local education agency is required to provide a comprehensive special education program which offers a continuum of education and related services for all exceptional children of school age whose legal residence is within that district. Exceptional children are defined in K.S.A. 72-962 as those who *differ in physical, mental, social, emotional or educational characteristics to the extent that special education services are necessary to enable them to progress toward the maximum of their abilities or capacities.* Such children include the mentally retarded, specific learning disabled, gifted, hearing impaired, language impaired, speech impaired, behavior disordered, physically and other health impaired, severely multiply handicapped/deaf-blind, and visually impaired. Expanded definitions of the various areas of exceptionality are provided in the program area supplements which may be requested from the Special Education Administration Section of the Kansas State Department of Education.

Services for exceptional children shall be implemented at the age at which the local board of education provides educational services for nonexceptional children. Services for preschool children are authorized, but not mandated, and nothing herein shall be construed to prevent the use of local funds or State special education categorical funds for such preschool programs. Services shall be extended through the school year during which the exceptional child reaches age twenty-one or until he/she has completed a local curriculum, in accordance with the State Board of Education standards, whichever event shall first occur. (See STATE DEPARTMENT ADMINISTRATION AND SUPERVISION section.)

Local education agencies may, and are encouraged to, provide programs for exceptional children prior to the age of regular schooling. Preschool programs for exceptional children have been authorized by law since 1965. This authority is under K.S.A. 72-67, 115.

Related or support services are those services which are required to assist an exceptional child to benefit from special education instruction *or* to assist the exceptional child to be maintained in the regular program. Such support services shall be provided as needed. (See RELATED SERVICES section.)

Status of Previous Special Education Mandates

The following special education services mandated prior to the Special Education for Exceptional Children Act remained unchanged.

1. The board of education of every school district is required to provide educational services for exceptional children as specified in the Developmentally Disabled Children's Act of 1973 (K.S.A. 72-933).
2. Each school board shall provide basic vision screening without charge to every pupil in its school not less than once every two years as specified in K.S.A. 72-5205.
3. Each school board shall provide basic hearing screening without charge to every pupil in its schools during the first year of admission and not less than once every three years thereafter as specified in K.S.A. 72-1204.

TRANSPORTATION TO SPECIAL EDUCATION SERVICES

Local education agencies shall be responsible for providing transportation for exceptional children in mandated special education services and may claim State special education reimbursement for 80 percent of the actual transportation cost. Such transportation shall conform to the least restrictive environment concept; that is, transportation shall be by conveyance most similar to that normally provided for non-exceptional children. The children who are able to walk to school or ride the regular school bus should continue to do so.

The responsibility of the local education agency extends to transportation of children to services not provided in the local education agency, such as the State schools or contracted services in special purpose schools. If it is necessary for a local education agency to contract with parents or other public or private agencies for transportation to such services, the local education agency may pay the person or agency providing the transportation and claim State special education reimbursement.

DUE PROCESS

Each local education agency shall adopt a due process policy which guarantees exceptional children and their parents procedural safeguards in decisions regarding identification, evaluation, and educational placement. These due process policies shall conform to State and Federal guidelines as set forth in PROCEDURAL DUE PROCESS section and shall be placed on file in the Special Education Administration Section.

CONFIDENTIALITY

Each local education agency shall adopt and have on file in the Special Education Administration Section a statement of confidentiality of records which guarantees privacy to student records. This statement of confidentiality shall conform to State and Federal guidelines as set forth in the CONFIDENTIALITY section.

GRADUATION RECOGNITION

An exceptional student shall be eligible for graduation from high school upon completion of State Board requirements as specified in S.B.R. 91-31-12h and shall receive the same graduation recognition and diploma as nonhandicapped students.

K.A.R. 91-12-32(b) authorizes local boards of education to set alternative graduation requirements for special education programs. When such alternative requirement policies are developed for special education programs, they shall be included in the Local Comprehensive Plan. State approval of the LEAs alternative graduation policies are given when the LEAs local comprehensive plan is approved.

Any such alternative graduation requirements shall include one unit of American history and at least one-half unit of American government, including the Constitution of the United States (K.S.A. 72-1103). These units may be adapted to meet the needs of given exceptional children. The alternative educational program shall be specified in the exceptional student's individualized education program (IEP). Under this alternative, the exceptional student also shall receive the same graduation recognition as any other graduating student. (See K.A.R. 91-12-32.)

LOCAL ADMINISTRATION AND SUPERVISION OF SPECIAL EDUCATION

When the local education agency reaches a student population of 5,000 pupils and has programs for four or more areas of exceptionality, a full-time director of special education shall be employed. It is recommended that a program coordinator or supervisor be employed when special education instruction staff in any categorical area is ten or more. (See LOCAL ADMINISTRATION AND SUPERVISION OF SPECIAL EDUCATION section.)

COMPREHENSIVE PLAN AND ANNUAL SURVEY

By October 15 of each year, each local education agency shall submit to the Special Education Administration Section an update or revision of its plan for providing comprehensive special education services. The local comprehensive plan shall include a report of the current status of local special education services and a three-year projection of program revision or expansion. Each year as the local education agency implements the first year of its projected activities, the plan shall be updated and a new three-year projection made. This updated plan shall reflect progress made in special education services and changes in local needs. The local education agency shall appoint a special education advisory committee to assist in formulating the comprehensive plan. (See LOCAL COMPREHENSIVE PLANS section.)

EXTENDED SCHOOL YEAR POLICIES

See Appendix A, Extended School Year.

INFORMATION ACTIVITIES

Each district/cooperative shall regularly provide information to the public concerning the needs of exceptional children, their educational rights, and the availability of special education services. Information shall include the fact that the State Department of Education maintains a toll-free number (1-800-332-6262) which may be called for additional information or resource materials on special education services, rights, and procedures. These informational activities may be accomplished through newspaper articles, television or radio coverage of school activities, brochures of special education services, or other public information activities carried out by the local education agency.

PERSONNEL DEVELOPMENT

The Kansas Administrative Regulations for Special Education require in 91-12-34(a) that *Each local education agency shall develop and submit to the special education administration section, a comprehensive plan for providing special education services. Each local plan shall include:... (8) a description of inservice activities to upgrade the competencies of staff working with exceptional children.*

To strengthen the education programming for exceptional students and to fulfill these regulations, state and local education administrators are often able to work together. Local education agencies may provide all of the inservice activities needed by their staff or may take advantage of inservice programs sponsored by the KSDE, university programs, other local education agencies, or professional associations.

Determination of the amount of inservice provided should be based on the assessed needs at each local education agency. The local agency must integrate any existing State approved inservice plans with the special inservice requirements for educators involved in the education of exceptional learners. This will interface personnel development activities for administrators, as well as regular and special educators.

A local comprehensive plan includes a three-year plan for personnel development which specifies the following:

1. A needs identification process to determine the inservice priorities of professionals, paraprofessionals, and regular education personnel.
2. Goals of the personnel development plan.
3. Objectives of the plan which are based upon the prioritized needs and contribute to the achievement of the established goals.
4. Activities designed to accomplish the objectives of the plan.
5. Methods for determining effectiveness of personnel development activities.

The following will be considered in developing important components of the plan:

- Incentives such as release time provided for staff participation in personnel development activities.
- Methods for acquiring and disseminating significant information and promising practices to local program personnel.

- Methods for assuring the opportunity for all staff to participate in the development, review, and updating of the plan.
- Designation of the person or persons responsible for implementation of the plan.
- Budget commitment and a three-year projection of training activity costs.

LEA personnel development practices are monitored through existing compliance procedures. Each local comprehensive plan is approved annually, and the monitoring process occurs routinely as part of the established local plan review.

SUSPENSION AND EXPULSION POLICIES

See Appendix D, Suspension/Expulsion of Handicapped Students.

ADMINISTRATIVE RESPONSIBILITIES

LOCAL ADMINISTRATION AND SUPERVISION OF SPECIAL EDUCATION

ADMINISTRATION OF SPECIAL EDUCATION

Centralized administration of special education services at the local level is necessary in order that the various programs for exceptional children may be coordinated and efficiently operated within a (1) single school district, (2) sponsoring district special educational cooperative, or (3) interlocal agreement. (See COOPERATIVE AGREEMENTS section.)

The administrator of special education has the responsibility for the exceptional student's education program in the local education agency and should be given authority to implement the program. The administrative authority in a special education cooperative rests with the sponsoring district, and all special education employees are subject to the same rights, privileges, policies, and/or limitations that are directed by the board of education of the sponsoring school. It is necessary that special education be integrated into the regular school system and that there be optimal use of community, State, and Federal resources.

Size of District

Each local education agency with an enrollment of 5,000 pupils and programs for four or more categories of exceptional children shall employ a full time director of special education. The director of special education shall be the principal administrator of the special education services (K.A.R. 91-12-31(a)).

Responsibilities

The following are the major responsibilities of the local administrator of special education. There may be others included, and some or several of those listed may well be delegated to other members of the special education staff.

1. Assessing needs of special education programs.
2. Preparing a comprehensive local special education plan.
3. Assisting in the selection and hiring of the special education personnel.
4. Implementing State and Federal mandates.
5. Maintaining adequate accounting procedures and completing Federal and State reports.
6. Providing leadership in curriculum development.
7. Conducting staff conferences and other inservice functions.
8. Assisting in planning and implementation of preschool, postsecondary, and inservice training programs.
9. Maintaining good public and community relations.
10. Acting as an advocate to obtain services for exceptional children.
11. Assuring availability of special materials and equipment.
12. Providing leadership in program evaluation and follow-up.
13. Budgeting and arranging financial resources for special education.

SUPERVISION OF SPECIAL EDUCATION

The director of special education is the principal administrator of the special education program. There may also be supervisors/coordinators hired for supervising the given specialty areas. A supervisor/coordinator may be a consultant with regard to several specialty areas and will usually have administrative responsibility in these specialty areas. Such specialty areas shall include both direct instructional and supportive services. While the supervisor/coordinator is no longer required to have training in all areas being supervised, it is anticipated that this person will have training in at least one of the specialty areas being supervised. Supervisor/coordinator endorsement is not available in the area of early childhood education for handicapped at this time.

Each local education agency should design a plan for assuring appropriate supervision based on the strengths and weaknesses in the local situation. It is recommended that provisions be made for —

1. Adequate supervision of and consultative assistance to personnel in designated areas of exceptionality.
2. Close planning between special education and general school administrative and supervisory staff.

When a special education program has ten or more professional staff in an area of exceptionality and/or the total special education staff exceeds twenty, a supervisor should be assigned. When supervisors are assigned part-time coordination activities, they shall be given release time from their other duties.

REIMBURSEMENT

The reimbursement schedule for administrators and supervisors of special education follows the same schedule as for all approved special education teachers. If the minimum requirements of training are met, the directors and supervisors shall be eligible for reimbursement.

LOCAL COMPREHENSIVE PLANS

INTRODUCTORY STATEMENT

The Kansas State Department of Education is charged by K.S.A. 72-971 with obtaining *data necessary for review of the progress or lack thereof made in special education services for exceptional children and to assess future needs for providing special education services on a more comprehensive, expert, economic and efficient basis.* Clearly, State planning must be based on the reality of local conditions. In order that both State and local programming may be coordinated, it is necessary for the Department to request local education agencies to submit needs assessment data and comprehensive plans for special education services.

The requirements of the Education of All Handicapped Children Act (P.L. 94-142) closely parallel those of Kansas special education statutes. Therefore, a local education agency's local comprehensive plan, or update thereof, is used to determine that district's eligibility to receive pass-through funds under P.L. 94-142. The content of the local comprehensive plan, as prescribed in this section, meets the requirements of local education agency applications set forth in the Federal Act.

PURPOSE OF THE LOCAL COMPREHENSIVE PLAN

The provision of appropriate educational services to all exceptional children requires systematic planning at both State and local levels. The local comprehensive plan delineates the parameters within which local education agencies must operate in order to comply with the Special Education for Exceptional Children Act. Each local education agency is required to develop specific goals, policies, and procedures by which it will implement the act. By setting down these goals, policies, and procedures, the local education agency —

1. Provides a structure for the development of quality special education services,
2. Informs patrons of available and planned services,
3. Demonstrates progress toward full educational opportunity for exceptional children, and
4. Provides a vehicle for self-evaluation and evaluation by State or Federal regulatory agencies.

Since the needs of children must serve as the basis for planning and initiating special education services, accurate information relative to these needs also is required. Needs assessment data is an integral part of each local plan or update thereof. Through compilation of local needs assessment data, the Kansas State Department of Education annually shall show the total number of exceptional children in the state as mandated in K.S.A. 72-971 and report to the U.S. Secretary of Education on the status of special education services as required by P.L. 94-142. Other State and local education agency operations for which these data are needed include the following:

1. Planning, programming, and budgeting;
2. Justification of State and Federal budget requests;
3. Determination of the extent to which mandated services for exceptional children are being provided;
4. Projection of numbers and kinds of special education and support personnel needed;

5. Identification of other resources needed, for example, facilities, materials, and equipment; and
6. Indication of needed legislative actions.

LOCAL SPECIAL EDUCATION ADVISORY COMMITTEE

Each local education agency shall appoint a special education advisory committee which includes parents of exceptional children. Members of the committee shall be appointed by the local education agency with input from the local parent organizations. The major function of the local special education advisory committee shall be to assist in formulating and updating the local comprehensive plan. The special education advisory committee also shall act in an advisory capacity to the local education agency and shall facilitate communication and participation by parents, community representatives, and educators in the planning of means by which the needs of exceptional children can be met.

The local advisory committee shall review and comment upon the local comprehensive plan adopted by the local education agency (K.A.R. 91-12-34(d) and (e)).

The function of this committee is to advise the local board on special education matters and to provide the board with input from various consumer and professional groups. Therefore, the membership of the advisory committee should be formally recognized and approved by the local board.

LOCAL EDUCATION AGENCY RESPONSIBILITY

Each local education agency is required to develop and submit triennially to the Special Education Administration Section, a comprehensive plan for providing special education services. *This plan shall be updated annually with those portions of the plan which are unchanged incorporated by reference* (K.A.R. 91-12-34)(b).

The local plan or an update must be submitted to the Special Education Administration Section by October 15 of each year. The local comprehensive plan includes a report of the current status of local special education services in relation to State and Federal special education requirements. Each year if the local education agency makes changes in its planned activities or procedures, the plan must be updated. This updated plan shall reflect progress made in special education services, changes in local needs, and revisions of local policies or procedures, as well as new State and Federal requirements. *Each local comprehensive plan shall be adopted formally by the local education agency* (K.A.R. 91-12-34(c)). For special education cooperatives, endorsement shall ensure that the plan has been endorsed by the local board of each participating district and reviewed by the local advisory committee.

Each cooperative district which sponsors a separate program (including homebound) which is not included in the special education cooperative shall be required to have a district administrator's signature on the cooperative's application for program approval, assuring the individual program will be operated according to policies and procedures in the cooperative's local comprehensive plan for special education. Should a district choose not to follow the cooperative's local comprehensive plan, that district shall submit to the Kansas State Department of Education a complete comprehensive plan, application for program approval and compliance report, end-of-year reports, and any other reports required by the Department.

CONTENT OF LOCAL COMPREHENSIVE PLAN

K.A.R. 91-12-34(a) requires each local comprehensive plan to include:

(1) *A statement of the local education agency's philosophy regarding the education of exceptional children.* This statement shall address the local education agency's commitment to making a free and appropriate educational program available to all exceptional children of its district.

(2) *a projection of the numbers and kinds of special education and related services needed. This projection of special education services shall include a description of the categorical and interrelated service units required to provide an appropriate service continuum.* The description of interrelated services shall respond to the criteria for State approval specified in K.A.R. 91-12-25(b).

(3) *needs assessment data, reported on forms provided by state education agency.*

   a. The types of alternative placements available to exceptional children within each category (December 1 count).

   b. The number of exceptional children within each category who are receiving services in each placement option (December 1 count).

   c. Availability of appropriate special education to all exceptional children within each category (Annual Survey Form).

(4) *a description of procedures for identifying exceptional children;*

   a. Screening procedures which —

      1. Describe procedures used for implementing hearing and vision screening as mandated by K.S.A. 72-1205 and K.S.A. 72-5205, including persons responsible.

      2. Describe or list other procedures or instrumentation used to locate children who may be in need of special education and who require further evaluation.

   b. Procedures for locating children not enrolled in school who may be in need of special education, for example, unserved preschool or school age children and children enrolled in private schools. (State institutions and special purpose schools are exempt from this requirement.)

   c. System by which children are referred for evaluation.

   d. Procedures for comprehensive student evaluation, including provisions for —

      1. Notification of parents, in parents' primary mode of communication, of intent to evaluate;

      2. Obtainment of parental consent to evaluate;

      3. Multidisciplinary evaluation;

      4. Nondiscriminatory testing;

      5. Multisourced evaluation, such as use of procedures/instrumentation which take into account the cognitive, social, emotional, and psychomotor aspects of the child's functioning;

      6. Additional identification requirements for children and youth suspected of having learning disabilities;

      7. Assurance that each special education student will be given a comprehensive evaluation and his/her case will be considered by the full staffing committee for placement and review at least every third year.

(5) *a description of procedures for assuring that exceptional children are receiving appropriate special education and related services;*

a. Structure of the staffing committee for placement and review.

b. Procedures for the formulation and implementation of written individualized education program for each exceptional child which include the following:

  1. Assurance that the IEP meeting involves the following participants:
     (a) A representative of the school, other than the child's teacher(s), who is qualified to provide, or supervise the provision of, special education,
     (b) The child's teacher(s),
     (c) One or both of the child's parents,
     (d) The child, where appropriate, and
     (e) Other individuals at the discretion of the parents or the school.
  2. Present levels of educational performance.
  3. Annual goals which describe the educational performance anticipated by the end of the school year.
  4. Statement of short-term objectives which are measurable intermediate steps between the present level of performance and the annual goals.
  5. Objective criteria and evaluation procedures for determining, at least every twelve weeks, whether short-term objectives are being achieved.
  6. Special education and related services needed without regard to availability.
  7. The extent to which the child will participate in regular educational programs or other less restricted environments.
  8. Projected dates for initiation of services and the anticipated duration of services to be provided.
  9. Listing of the names and positions of the individuals responsible for implementation of the individualized education program.

c. Policies for developing individualized education programs for children referred to or placed in accredited special purpose schools. Special purpose schools shall describe their procedures for working with local school districts in the development of individualized education programs for students within their facilities.

d. Time lines for developing individualized education programs for children currently receiving special education and for children determined to be eligible for special education services.

e. Procedures for checking the progress of students terminated from special education services and returned to regular education programs. (Special purpose schools are exempt from this requirement.)

f. Procedures for assuring that physical education services, especially designed if necessary, are made available to every handicapped child.

g. Procedures for assuring participation of special education students in non-academic and extracurricular services and activities.

h. Policies regarding facilities to assure —

  1. Appropriateness,

        2. Accessibility, and
        3. Least restrictive environment.
    i. Procedures for provision of special education services to handicapped children in private and parochial schools.

(6) a description of public awareness activities;
Documentation of local education agency efforts to regularly provide information to the public concerning the needs of exceptional children, their educational rights, and the availability of special education services. (Special purpose schools are exempt from this requirement if they do not accept P.L. 89-313 funds.)

(7) the policy or policies of the local education agency regarding the graduation of exceptional children;

(8) a description of inservice activities to upgrade the competencies of staff working with exceptional children, including the following:
- a. Methods for determining what inservice will be provided,
- b. System of inservice activities for
    - 1. Professionals,
    - 2. Paraprofessionals, and
    - 3. Regular education personnel,
- c. Policies regarding release time for attendance at staff development activities, and
- d. Procedures for evaluating effectiveness of staff development activities.

(9) a description of procedures for evaluating the effectiveness of the special education and related services provided by the local education agency. These procedures shall address the program evaluation requirements in K.A.R. 91-12-25(b)(1). (See STANDARDS FOR INTERRELATED SERVICE UNITS section.)

Evaluation of program areas addressed must include —
- a. The amounts and types of education services provided, the number and types of exceptional children served, the costs of these services (including human and material resource costs), and the changes produced in the exceptional children receiving these education services, and
- b. A statement of data collection plans for the approaching fiscal year designed to produce program performance data addressing each program area specified above.

(10) a copy of the local education agency's policies on the confidentiality of personal and identifiable information on exceptional children;

(11) a copy of the local education agency's policies on due process in the evaluation and placement of exceptional children;

(12) a copy of the local education agency's policies on suspension and expulsion of exceptional children;

(13) a copy of the local education agency's policies on extended school year for exceptional children;

(14) a current list of local due process hearing officers (list to consist of not less than two names) and a statement of qualifications of each hearing officer on the list;

(15) a statement of adoption of the local comprehensive plan or update thereof by the local board of education; and

(16) documentation of the local education advisory committee's comments on the local comprehensive plan.

LEAST RESTRICTIVE ENVIRONMENT

The least restrictive environment (LRE) principle establishes the right of each exceptional student to be provided an appropriate education with nonexceptional students to the maximum extent possible. LRE regulations do not preclude the placement of exceptional children in *restrictive* settings, such as special classes, day schools, or residential facilities. They do require that decisions regarding LRE be based on the student's unique needs and not reflect administrative convenience or the absence of alternative placements. Violations of the LRE principle also occur when placement in a restrictive setting is the only educational option available to all children in a given category of exceptionality.

Application of the LRE principle moves beyond the consideration of alternative placements (for example, resource room, self-contained class) to each activity or experience in which the exceptional student participates during the school day. Therefore, least restrictive environment represents an educational principle and an educational goal. In applying the principle, the exceptional student remains as close as possible to the regular educational environment and is not removed unless it is established that supplementary aides and services are insufficient. As an educational goal, the LRE concept represents an ongoing effort to move each exceptional student to a less restrictive setting when the ability to profit from such a setting has been demonstrated.

The implementation of the LRE principle requires two levels of consideration. First, each local education agency must establish appropriate administrative guidelines, procedures, and programs to assure the availability of an appropriate education for each exceptional student in the LRE. Second, the LRE principle must be applied when an individual determination of the appropriate educational alternatives is made for each exceptional student.

See Appendix C, Least Restrictive Environment, for expanded version.

ADMINISTRATIVE PROCEDURES

K.A.R. 91-12-35 requires: *Each local education agency shall provide: (a) Support services to enable each exceptional child to remain in a regular class placement or placements to the maximum extent possible;*

- *(b) Sufficient placement options so that removal of the exceptional child from regular education placement presents the least necessary deviation from the educational experiences provided for non-exceptional children;*
- *(c) For the participation of each exceptional child with non-exceptional children to the greatest extent possible in nonacademic and extracurricular services and activities;*
- *(d) Special education and related services as close as possible to the child's home; and*
- *(e) A systematic review process to assure that placement for each exceptional child is in accordance with the least restrictive environment principle.*

The requirement that special education be provided as close as possible to the student's home means that attendance should be in the school the student would attend if he/she were not handicapped, unless the student's individualized education program requires some other arrangement, that is, a special education program available only in an alternative setting.

The intent of this provision is to prevent placement in a distant program when an equally appropriate program exists closer to the student's home.

SERVICE CONTINUUM OF ALTERNATIVE PLACEMENTS

The service continuum developed by each local education agency should reflect the pupil, community, and school-related variables specific to that local education agency's situation. The following administrative plans are commonly suggested as points on a total service continuum. These plans and combinations thereof will be considered by the Special Education Administration Section for approval.

HOME-BASED PLAN

'Home-based plan' means a plan for the delivery of special education services to preschool age exceptional children under which a special teacher instructs the parent or parents of an exceptional child on the means of providing educational services to the child on a daily basis. This plan shall be used only in programs for preschool age handicapped children (K.A.R. 91-12-22(m)). Home-based instruction involves a teacher traveling to the home to teach the handicapped child and to instruct the parent(s) in techniques of educational intervention. For all young children the parent(s) are part of the instructional team and parental involvement should be a strong component of the program. A combination of home-based and school-based instruction may be employed.

SPECIAL MATERIALS, EQUIPMENT, TRANSPORTATION AND/OR SUPPORT SERVICES ONLY

After completion of a comprehensive evaluation, it is occasionally determined that an exceptional student requires only some form of special assistance in order to successfully remain in the educational mainstream. Examples of this are, a visually impaired student may need nothing more than large print reading materials, or a physically impaired child may need only transportation. (For additional discussion of this minimal special education service see the RELATED SERVICES section.) When this type of service is provided periodic monitoring of pupil progress is necessary to ensure that the degree of support is sufficient.

CONSULTING TEACHER PLAN

'Consulting teacher plan' means a plan for the delivery of special education services under which a special teacher facilitates the maintenance of exceptional children in regular education by providing regular education teachers with assistance in educational diagnosis, prescriptive decisions and educational interventions. No more than one-third of the consulting teacher's time shall be devoted to direct instruction of students (K.A.R. 91-12-22(e)). The consulting teacher functions as an instructional specialist who may work across several areas of exceptionality. The main thrust of this program is to assist classroom teachers to develop their own educational diagnosis, prescriptive decisions, and delivery of treatment. Direct service to students is limited to short-term instruction carried out with individual students in regular classrooms for the purpose of demonstrating special techniques to the teacher(s).

ITINERANT TEACHER PLAN

'Itinerant teacher plan' means a plan for the delivery of special education services under which a special teacher provides direct service to exceptional children enrolled in the regular

education classroom. The major role of the teacher shall be to provide specialized individual and small group instruction and to provide consultation to the regular education teacher or teachers (K.A.R. 91-12-22(t)). Whenever possible, instruction of the student should be done in the classroom setting in order to facilitate communication between the specialist and the regular teacher. Adequate facilities should be available for instructional activities which cannot be appropriately carried out in the classroom. The itinerant teacher also provides direct services to handicapped students or those students who are returning to the regular classroom after a period of time in a more intensive program.

The itinerant teacher may be scheduled to serve in two or more schools. Caution should be used, however, to ensure the most efficient use of the teacher's time. Excessive travel time or scheduling which does not allow enough time for coordination with the regular classroom teacher may reduce the effectiveness of the program.

RESOURCE ROOM PLAN

'Resource room plan' means a plan for the delivery of special education services under which exceptional children are enrolled in a regular education program, but go to a specially equipped room to receive special education services from a special teacher. The special resource room teacher shall be responsible not only for the resource room, but also for maintaining communication with the regular classroom teacher or teachers of the exceptional children (K.A.R. 91-12-22(ff)). Like the itinerant teacher, the resource room teacher provides both instructional and consultative services. This implies that scheduling must allow for work with other teachers. The amount of time spent by students in the resource room depends upon individual needs. However, the intent of the resource room plan is to provide supportive assistance to exceptional learners in the educational mainstream. This intent is violated if students spend most of their time in the resource room.

SPECIAL CLASSROOM PLAN

'Special classroom plan' means a plan for the delivery of special education services under which exceptional children are assigned to a special education class, but may receive some academic instruction in regular education classes. The special classroom teacher shall be responsible for monitoring the progress of the exceptional children in regular education classes and for providing appropriate support (K.A.R. 91-12-22(mm)). The extent of integration is determined by the learner's individual capabilities. A major difference between this program and the resource room plan is that in the resource room the pupil is enrolled in a general education program, whereas in this plan, the pupil is enrolled in a special education program and integrated to some degree into general education classes. Like general education students, special class students may engage in total school activities, such as school clubs, assemblies, and sports.

SPECIAL DAY SCHOOL PLAN

'Special day school plan' means a plan for the delivery of special education services under which the children are sent to a special purpose school that provides any of the following:

(1) Specialized curricula;
(2) modified facilities and equipment; or
(3) interdisciplinary, ancillary, medical, psychiatric, or social services for exceptional children, or some combination of these services (K.A.R. 91-12-22(nn)).

Day care centers, work activity centers, or sheltered workshops are common types of special day schools. Local education agencies may contract with accredited special day schools for services to children or youth for whom the program is appropriate. Local education agencies may also employ a teacher to work in the special day school setting. Inasmuch as exceptional students enrolled in special day schools are segregated from their normal peers, this alternative should be used only when the unique needs of a learner cannot be met within the public school system. It is the responsibility of the local education agency to monitor student progress. The monitoring process should include a focus on the student's capability to reenter the programs provided in the public schools.

RESIDENTIAL SCHOOL

'Residential school' means a facility which provides a total residential program of treatment and special education for exceptional children (K.A.R. 91-12-22(ee)).

A few handicapped students profit most from the intensive and comprehensive services provided by residential facilities. The total residential treatment program should include educational experiences which optimize the learner's ability to cope with his/her environment, and the ultimate goal should be to return learners to the community and the public schools. Cooperative agreements between residential centers and local education agencies can increase the program variations available to children and youth. Some learners may not require residential living arrangements, but may benefit from the residential educational program. Others who reside at the center may be able to function successfully in the public school setting.

HOSPITAL INSTRUCTION

'Hospital instruction' means a plan for the delivery of educational services under which the educational services are provided to children confined to hospitals or convalescent homes for psychiatric or medical treatment (K.A.R. 91-12-22(o)).

Both identified exceptional students with chronic disorders and exceptional students who are hospitalized for short periods of time recovering from accidents or illness are eligible for State categorical reimbursement for this program. The local education agency is responsible for providing homebound or hospitalized instruction to regular education students even though State categorical reimbursement is not available for this population. Satisfactory programming requires a team approach involving the physician, other hospital personnel, and the school to which the student will return when he/she has sufficiently recovered.

HOMEBOUND INSTRUCTION

'Homebound instruction' means a plan for the delivery of educational services under which educational services are provided in the home of a child whose health problems are so serious that school attendance is impossible, or who is temporarily disabled by physical or mental illness (K.A.R. 91-12-22(n)).

In some cases, students with severe and/or unusual handicapping conditions may receive short-term homebound instruction as a temporary measure until more appropriate arrangements can be made. State special education categorical aid shall be used for financing students receiving homebound or hospitalized instruction if they are identified as exceptional and have a current IEP. The local education agency is responsible for providing homebound or hospitalized instruction to regular education students even though State reimbursement is not available for this population. Frequent reevaluation of pupils receiving a homebound program is necessary. Discretion in the use of this plan is necessary, and long-term arrangements should be avoided. This is the most segregated of all special education plans.

SYSTEMATIC REVIEW OF ALTERNATIVE PLACEMENTS

In order to guarantee the right of each exceptional student to be educated with his/her normal peers unless clear evidence is available that partial or full removal will provide an improved program for the student, each local education agency shall establish procedures for the systematic review of alternative placements. Requirements relative to systematic review of any special education placement are found in the SCREENING, EVALUATION, PLACEMENT, AND REVIEW section.

INDIVIDUAL CONSIDERATIONS

The application of the least restrictive environment principle in determining the appropriate program for an exceptional student occurs throughout the development, monitoring, and review of the student's individualized education program. General program questions which should be addressed include the following:

1. Have all procedural requirements been met?
2. Have all the data necessary to make a program decision been gathered?
3. Are the IEP team members familiar with the array of appropriate educational program options?

Specific questions pertaining to the student whose program is being considered are raised by the data on the student's current level of educational performance. This data should reflect the following:

1. Learning rate;
2. Learning style (for example, auditory or visual, reflective or impulsive);
3. Physical and/or sensory problems;
4. Communication skills;
5. Motivational factors;
6. Social/emotional adjustment with current peers and important others;
7. Areas of the learning process, curriculum, and setting affected by the problem;
8. Current level of performance;
9. Alternative strategies tried (for example, material modification, behavior management);
10. The frequency, intensity, and chronicity of the problem; and
11. The current goals and objectives for the student.

On the basis of this data, an individualized education program for the student is developed using the following guidelines:

1. Does the student need specialized materials, curriculum, or setting?
2. Would the student benefit from mastering specific coping strategies or other compensatory skills?
3. To what extent does the student need physical support such as adapted equipment?
4. How much structure within the learning environment is necessary for the student?
5. What specific areas of the educational program are affected by the student's academic, physical, and behavioral characteristics?

6. Does the intensity of services required dictate the need for a specialized environment? If so, what needs to occur to allow mobility to a less restrictive environment?

When the goals and objectives specified in the student's individualized education program have been reached, new goals and objectives shall be formulated. The most productive environment for the student, which is as near a normal setting as possible, is considered at each point in program planning.

COOPERATIVE AGREEMENTS

INTRODUCTORY STATEMENT

Districts may comply with the mandate to provide special education services by entering into cooperative agreements with other school districts. Two types of cooperative agreements are permitted by Kansas law: special educational cooperative agreements under K.S.A. 72-968(5), and interlocal agreements under K.S.A. 12-2904 and 72-8230. Advantages of a cooperative plan include quality programs at less cost per child, a broader range of services, and less costly provision of services for exceptional children in the low incidence categories.

SPECIAL EDUCATION COOPERATIVE AGREEMENTS

A sponsoring district special education cooperative under K.S.A. 72-968(5) is a plan whereby the boards of two or more school districts enter into an agreement to provide special education services on a shared-cost basis. Under these agreements, one district must be designated as the sponsoring district and that district is responsible for providing the special education services specified in the agreement. It is strongly recommended that special education cooperative agreements provide for a full range of special education services.

Advisory Board

Special education cooperative agreements generally provide for an advisory board composed of the superintendents of the cooperating districts. This board does not have the powers of a board of education of a unified school district. It may, however, recommend policies and procedures, priorities, and budgeting items which are to be acted upon later by the board of education of the sponsoring district.

SPECIAL EDUCATION INTERLOCAL AGREEMENTS

Under the authority of K.S.A. 12-2904 and 72-8230, school districts may enter into interlocal agreements and establish a separate legal entity to provide certain educational services.

Board of Directors

Each entity established under an interlocal agreement must be governed by a board of directors. The board of directors is to be composed of at least one member from the board of education of each school district which enters into any such agreement. An interlocal board may perform any of the services, duties, functions, activities, obligations, or responsibilities which are authorized or required by law to be performed by a local board of education, excluding the power to levy taxes.

APPLICATION FOR APPROVAL

Each special education cooperative agreement or interlocal agreement providing for special education services shall be approved if it meets statutory requirements, includes a designation of the special education services to be provided, and is in proper legal and grammatical form.

Each special education cooperative agreement or interlocal agreement must be submitted to the State Board of Education at least 45 days prior to the proposed effective date of the agreement. Each interlocal agreement also must be submitted for approval to the Office of the Attorney General.

TERMINATION OF AGREEMENTS

Both special education cooperative agreements and special education interlocal agreements are perpetual under K.S.A. 72-968 and 72-8230, respectively, until terminated in the manner specified in those statutes. Partial termination of a special education cooperative agreement or an interlocal agreement may occur only upon:

(1) Petition, by a contracting district, to the other contracting school district(s); and
(2) Approval by the State Board after written consent has been obtained from the contracting school district(s) or a hearing has been held and the State Board determines the partial termination should be allowed.

Complete termination of an agreement may occur only upon approval by the State Board of a petition for termination of the agreement signed by all of the contracting school districts. Each contracting school district must adopt a resolution to terminate the agreement, prior to the petition for termination being submitted to the State Board.

CONTRACTUAL ARRANGEMENTS

INTRODUCTORY STATEMENT

To provide special education services which are most appropriate for each child, the public schools have been given the authority to utilize various avenues in the development of quality programs. These alternatives include the establishment of special education services within a district, the formation of multidistrict special education cooperatives, interlocal districts, or certain specific contractual arrangements. K.S.A. 72-967 authorizes districts to contract with accredited private nonprofit corporations, or with public or private institutions and with other school districts within or without the state for special education services. For service to preschool age children, districts may contract with programs that meet the State Board of Education's standards and have been approved by the Kansas State Department of Education (see EARLY CHILDHOOD HANDICAPPED section). State institutions may contract with individual school districts, a cooperative host district, or interlocal districts for special education services under the authority of K.S.A. 72-970. The following regulations apply to all such contractual arrangements.

GENERAL CONSIDERATIONS

Approvable Services

K.A.R. 91-12-36(a) requires local education agencies to contract only for special education services which have been approved by the Commissioner of Education and authorized by the State Board. For out-of-state services, the contract must be with an agency or district that is approved or accredited by the Kansas State Department of Education.

Approval of Contractual Arrangements

Proposed contracts for special education services, including proposed contracts with special purpose schools, shall be approved by the commissioner of education before the contracts are entered into. Three copies of each proposed contract shall be filed with the commissioner of education for review (K.A.R. 91-12-36(b)). Local districts will be notified by the Commissioner of his action. Services cannot legally be carried out or paid for without an approved contract. Reimbursement cannot be authorized or generated by a local education agency prior to the approval of both contracting parties and the Commissioner of Education. The special education services and special purpose school contracts must be approved by local parties and signed by the president of the board of education and the representative of the special purpose school. A designated board member may sign for the president but the superintendent or director of special education may not sign as a designee of the board.

Prior to entering into a contract with a public school district for educational services, a public or private institution shall submit to the State Commissioner of Education the curriculum to be provided. Upon authorization by the State Board of Education, the Commissioner shall approve the curriculum. Such approval shall remain in effect until the public or private institution changes or modifies the curriculum. A copy of the letter of approval shall remain on file in the Special Education Administration Section.

A contract shall be approved if the commissioner of education approves the special education services or the curriculum provided for in the contract, and if the contract contains the following:

(1) *The names of the contracting parties;*

(2) *the authority pursuant to which the contract is entered into, either K.S.A. 72-967 or K.S.A. 72-970;*

(3) *a detailed statement of the special education services or the curriculum to be provided;*

(4) *the name of the child or children to be served;*

(5) *the related services to be provided;*

(6) *a provision limiting the term of the contract to the state fiscal year in which the services are to be provided;*

(7) *the cost of the services;*

(8) *a provision for termination of the contract for non-performance or lack of funding;*

(9) *the means by which the sending agency will implement individual education program procedures and monitor pupil progress;*

(10) *if the contract is between two school districts, agreement that the sending district will count the child for state and other financial reimbursement; and*

(11) *if the contract is between a state institution and a school district, a provision specifying the federal education of the handicapped support program, P.L. 92-142 or P.L. 89-313, under which the child will be counted for state or local financial entitlements* (K.A.R. 91-12-36(c)).

COUNTING PUPILS FOR STATE AND FEDERAL AID

Whenever an exceptional child is educated by a special school through a contractual arrangement (private nonprofit corporation or public or private institution) or by another school district under the provision of K.S.A. 72-967, such child shall be considered a pupil of the child's home district. As a pupil of the sending district, he/she shall be counted to the same extent as other pupils of the district for the purpose of determining entitlements and participation in all State, county, and other financial assistance or payments to the school district.

Whenever the education of an exceptional child is contracted by a school district with a State institution under the provision of K.S.A. 72-970, such child may be counted either by the State institution for support under P.L. 89-313 or by the school district for support under P.L. 94-142. In no case may the child be counted by both agencies. It is recommended that the contracting agencies cooperatively determine the more advantageous Federal funding source. This determination must be specified in the contract submitted to the Kansas State Department of Education.

When pupils are sent to out-of-state facilities, they may be counted by the sending district for State equalization aid. Such handicapped pupils may also be counted for support under P.L. 94-142 as well as for State Categorical Special Education Funding.

REIMBURSEMENT AND FINANCES

DEFINITION OF SPECIAL TEACHER

'Special teacher' is defined in K.A.R. 91-12-22(qq) as —

(1) A teacher employed by a local education agency to provide special education services who is certified by the state board of education to instruct exceptional children;

(2) special education related services personnel certified by the state board of education;

(3) special education related services or instructional personnel who hold current certification from their respective licensing or registering agents appropriate for their special work;

(4) other related services or instructional personnel for which there is no licensing or registering agent, but who are employed to work with exceptional children. These individuals shall be approved on an individual basis by the special education administration section and shall be recommended for employment by their parent training institution;

(5) any instructional or related services paraprofessional who works under the supervision of a special education professional in an accredited or approved special education program.

Included under this definition are art therapists, audiologists, counselors, dance movement therapists, music therapists, occupational therapists, physical therapists, school psychologists, school health personnel, school social workers, special education administrators/supervisors, special education teachers, special music education teachers, speech and language clinicians, and special education paraprofessionals.

INTRODUCTORY STATEMENT

The cost of special education services is frequently in excess of, or in addition to, the cost of educating the average child. Some excess costs are due to special diagnostic procedures, low pupil/teacher ratios, special equipment and materials, and ancillary services which are required to meet the exceptional needs of handicapped or gifted learners. Also, the low incidence of certain handicapping conditions and the unequal distribution of children needing services may require unusual transportation arrangements which increase the expense of educating exceptional children. Recognizing these facts, the Kansas Legislature has, since 1951, appropriated State funds to assist school districts in establishing and maintaining special education programs. Local education agencies that provide special education services in compliance with this Plan shall be entitled to receive, in accordance with K.S.A. 72-978, (a) a portion of the travel allowances of special teachers; (b) a portion of the travel expenses incurred in transporting exceptional children or, in lieu of pupil transportation, a portion of the actual expenses incurred for the maintenance of exceptional children at a place other than their residence; and (c) reimbursement for approved program units.

SPECIAL EDUCATION REIMBURSEMENT FORMULA

Each year, in accordance with K.S.A. 72-978, pupil and teacher transportation and maintenance in lieu of transportation reimbursement are subtracted from the total State special education fund. The remaining funds are divided by the number of approvable special education full-time teacher equivalencies (FTE) to obtain the per unit amount of reimbursement. One FTE equals 1,080 clock hours. Each approved paraprofessional unit as defined in K.S.A. 72-962(h) is counted as two-fifths half full-time equivalent special teacher. No special teacher or paraprofessional in excess of the ratio of special teacher to exceptional children authorized by the State Board of Education for the school district shall be counted in making computations under this Act.

The following example illustrates the special education reimbursement formula. Given special education State funds of $110,655,541, transportation claims amounting to $12,933,514, and 5,741 approvable full-time teaching equivalencies, the formula would be —

$$\frac{\text{total State funds — transportation costs}}{\text{full-time teaching equivalencies}} = \frac{\$110{,}655{,}541 - \$12{,}933{,}514}{5{,}741} =$$

$$\text{\$17,022 per FTE unit reimbursement}$$

The above amounts do not represent actual figures for appropriations, claims, or FTE unit reimbursements.

COUNTING SPECIAL EDUCATION PUPILS FOR STATE, COUNTY, AND OTHER FINANCIAL ASSISTANCE

Entitlements Other Than Special Education Reimbursement

Districts have authority to —

1. Enter into cooperative agreements with one or more other school districts,
2. Contract with any school district, and/or
3. Contract with any special purpose school (accredited private nonprofit corporation or any public or private institution within or without the state) for special education services.

Whenever an exceptional child is educated in another district or in a special purpose school under the above provisions, that child is considered a pupil of the school district of which he/she is a legal resident for the purpose of determining regular State aid entitlement and other financial assistance and payments.

Special Education Reimbursement

Special education reimbursement for any program or exceptional child shall be in addition to any other assistance to which the district is otherwise entitled (K.A.R. 91-12-37(a)(1)). Districts that provide special education services for certain exceptional children through approved contractual agreements with accredited special purpose schools may receive special education reimbursement for these children on a prorated basis. *The computation of reimbursement due a district for special purpose school contracts shall be based on the ratio of the number of children served to the average special class size for a given category of exceptionality, as determined annually by the state board* (K.A.R. 91-12-37(a)(4)). Districts that provide special education services through approved contractual agreements with other districts may receive special education reimbursement for transportation only. It should be noted that tuition may be charged at a reasonable rate for nonresident pupils. Contracts between the sending and receiving parties must be approved by the State Commissioner of Education prior to implementation of the service.

Children In-State Institutions

If any exceptional child is housed, maintained, and provided special education services at a state institution, the child shall not be counted by the local school district, but shall be *counted by the institution for any entitlements or financial assistance* (K.A.R. 91-12-37(a)(5)).

ESTABLISHMENT OF SPECIAL EDUCATION FUND

K.S.A. 72-7057 requires every local education agency to establish a special education fund. All special education expenditures must be paid from this fund. While itemized claims are not required by the Kansas State Department of Education, accurate records should be kept by the local education agencies for auditing purposes. Such records should include expenditures and lists of supplies, equipment, transportation, contractual agreements, and funding sources used.

SPECIAL EDUCATION COOPERATIVES AND INTERLOCAL AGREEMENTS

Boards of education of two or more school districts, who enter into agreements to provide for cooperative special education services, may do so on a shared-cost basis as outlined and agreed to by all districts involved via a cooperative contract or an interlocal agreement.

In a cooperative contract, one district shall be designated as the sponsoring district and shall be responsible for submitting all necessary annual survey, reimbursement, and other forms deemed necessary by the Kansas State Department of Education. The sponsoring school district shall be recognized as the legal representative of any cooperative program.

In an interlocal agreement the special education cooperative becomes a legal entity. An interlocal board is formed and is responsible for all policies necessary to carry on the special education programs except that they do not have taxing authority.

In both the cooperative contract and interlocal agreement a special education fund is established. All districts will remit their contract obligations to the fund. Pupil transportation may be included or excluded as part of any cooperative agreement. If excluded, each district within the cooperative must submit its own annual survey form and reimbursement requests for pupil transportation.

REQUIREMENTS FOR APPROVED PROGRAMS
(Full-Time Teaching Equivalencies)

Districts maintaining special classes in the public schools or providing special education services in any other manner shall receive State reimbursement if the classes, schools, or special education services are approved by the Kansas State Department of Education. Approval will be based on program location, size of classes, appropriateness of facilities, conditions of admission and reassignment of pupils, adequacy of equipment, courses of study, method of instruction, and qualifications of teachers. *Each district maintaining a program less than full-time (1,080 clock hours) shall be reimbursed on a prorated basis. No reimbursement shall be made for staff employed less than half-time unless approved by the state special education administration section* (K.A.R. 91-12-37(a)(2) and (3)).

Summer School Programs

Summer school programs serving exceptional children are permitted and may receive special education reimbursement. Reimbursement will be prorated from the FTE unit reimbursement for the fiscal year according to the number of days or clock hours of instruction offered. In other words, a summer school program of 45 days/270 clock hours would receive reimbursement in the amount of one-fourth of the FTE unit reimbursement (180 days/1,080 clock hours) for the current fiscal year.

Preschool Programs

Preschool programs serving exceptional children (ages birth to school age) are permitted and may receive special education reimbursement. Reimbursement will be prorated from the FTE unit reimbursement for the fiscal year according to the number of days or clock hours of instruction offered.

In 1988, K.S.A. 72-7033 was amended to define "pupil" to include three-year-olds who are regularly enrolled in the district and attending special education services provided for preschool-aged children. Under this definition, three-year-old children who are identified as handicapped, have an IEP, are regularly enrolled in the public school, and are attending special education services on September 20 are eligible for equalization aid. Children must be three years of age by September 20 to qualify for equalization aid.

TRANSPORTATION

Each school district which has provided approved special education services shall be entitled to receive reimbursement for the extra travel expenses incurred. Such extra expense may be incurred by special teacher/paraprofessional travel, pupil transportation, or pupil maintenance in lieu of transportation.

Pupil Transportation

Pupil transportation reimbursement shall be in an amount equal to 80 percent of the actual travel expenses incurred each school year. When transporting exceptional children, the district shall enforce applicable safety standards and should assure that adequate liability coverage is maintained. Travel time for each child should not exceed one hour each way (K.A.R. 36-13-31(3)(c)) without parental consent. When more than one pupil is transported in the same vehicle, the amount which can be claimed shall be based on the average cost per pupil utilizing this vehicle.

Teacher and Paraprofessional Travel Allowance

Actual travel allowance to special teachers during the conduct of assigned duties directly related to providing special education and related services may be reimbursed as prescribed in K.S.A. 72-978 (K.A.R. 91-12-37(b)(2)). Expenses to attend professional meetings, inservice, etc. are not reimbursable. Reimbursement shall not exceed 80 percent of the actual travel expenses incurred per special teacher per school year. The same rate applies whether the travel is by the teachers/paraprofessionals' private car or by a school owned vehicle. If more than one teacher travels in the same vehicle, the amount which can be claimed shall be based on the average cost per teacher.

In-District Pupil Transportation by School Bus

Reimbursement for the actual expense of transporting any exceptional child to special education services provided in the school building normally attended by the child shall be claimed in accordance with the provisions of K.S.A. 72-7047 or any amendments to this statute (K.A.R. 91-12-37(b)(1)(A)).

Any additional cost incurred in transporting any exceptional child to another facility where that child receives special education services shall be reimbursed as prescribed in K.S.A. 72-978. Reimbursement for the actual costs of providing transportation to other facilities for the purpose of diagnosis or evaluation may be claimed (K.A.R. 91-12-37(b)(1)(B)). Special education transportation reimbursement will not be paid for any exceptional child who has been counted in calculating regular State transportation aid.

In other words, if an exceptional child —

1. Would ordinarily be transported to his/her attendance center by the district's regular bus system, and
2. Is transported by the district's regular bus system, and
3. Is provided special education services in his/her regular attendance center,

he/she should be counted in calculating regular State transportation aid and not be counted in calculating special education pupil transportation reimbursement.

If an exceptional child —

1. Would ordinarily be transported to his/her attendance center by the district's regular bus system, and
2. Is transported by the district's regular bus system, and
3. Is provided special education services in an attendance center other than his/her regular attendance center,

that child may be counted in calculating regular State transportation aid for the distance to his/her regular attendance center. Travel expenses incurred in transporting that child from his/her regular attendance center to the attendance center in which special education services are provided may be counted in calculating special education transportation reimbursement.

Special education in-district pupil travel reimbursement is paid at 80 percent of the actual travel expenses. When more than one exceptional child is transported by the same vehicle, the amount claimed is based on the average cost per pupil utilizing this vehicle. For example, if the actual cost per year to transport five students is $700.00, reimbursement would be 80 percent of $700.00 or $560.00.

Pupil Transportation by Special Vehicle

Some exceptional children have handicapping conditions that make travel by regular school bus unrealistic and therefore require special arrangements for transportation. Such means may include taxicabs, automobiles, and specially equipped buses or vans. The administrative unit is responsible for making and scheduling arrangements for such transportation and assuring that planned schedules are met. The responsible school authority shall assure that all applicable safety standards are enforced and should assure that adequate liability coverage is maintained.

When more than one exceptional child is transported by the same mode of transportation, the amount which can be claimed shall be based on the average cost per pupil utilizing this vehicle.

The cost for modification of an authorized school district vehicle to accommodate handicapped children or provision of special equipment, such as ramps and hoists, is reimbursable, subject to prior approval by the Kansas State Department of Education.

Transportation Contracts

If a school district, of necessity, must contract with a parent or other private party for transportation of an exceptional child, the cost to the district to deliver the child to his/her program and return him/her to his/her home may be reimbursed. *Each district that enters into a transportation contract shall be responsible for making payment to the party providing the transportation. Transportation reimbursement shall be available to any district that actually provides transportation for exceptional children, if the special education services are* *provided through approved contractual agreements* (K.A.R. 91-12-37(b)(1)(D) and (E)). Two round trips per day may be reimbursed but in no case can the reimbursement exceed 80 percent of actual cost incurred per exceptional child per year.

In-State/Out-of-State Diagnosis or Service

Reimbursement for transportation to and from in- or out-of-state residential facilities or institutions is permitted, provided the local school district has agreed to and incurred such expenses. Transportation may be by public, private, or school-owned vehicle. Such expenses must be approved by the Kansas State Department of Education. In the event a child is enrolled in a residential facility or institution after the annual survey form has been submitted to the Kansas State Department of Education, an updated request must be submitted. If funds are available and approval is granted by the Kansas State Department of Education, reimbursement will be made to the sending district as part of the final payment.

K.A.R. 91-12-37(b) authorizes reimbursement for transportation provided to centers, clinics, and other facilities for the purpose of diagnosis, evaluation, or continuing educational services.

Nonresident Pupil Transportation or Maintenance

If an exceptional child is transported to special education services in a district other than the one in which he/she resides, transportation costs may be paid by either the sending or the receiving district. Special education reimbursement will be paid as requested and approved on the annual survey form.

Expenses incurred to provide room and board or nonmedical care, or both, to any exceptional child shall be at no cost to the parents of the child if the school district in which the child resides provides special education services to the child at a place outside the school district in which the child resides (K.A.R. 91-12-37(c)). Costs of such maintenance may be met by funds from any public or private source including insurers and similar third parties. A portion of the costs incurred by a school district are reimbursable. Reimbursement in lieu of transportation may be claimed for 80 percent of the actual maintenance expenses up to a limit of six hundred dollars per exceptional child per school year.

A boarding facility operated by a school district may use a combination of various non-State or Federal funding sources, such as private donations, gifts, and estates, to help defer operating costs and also be eligible for State and Federal monies. In the combination and use of these funds, care must be taken to protect against duplicate funding for the same services, equipment, supplies, and facility maintenance.

Provisions for Severely Multiply Handicapped/Deaf-Blind

K.S.A. 72-853 authorizes the Kansas State Department of Education to expend available funds for the purpose of sending children who are deaf-blind or otherwise severely handicapped to any facility, school, or institution within or without the state of Kansas which provides a qualified program of education for such children. These funds may be spent for evaluation and diagnosis, room, board, tuition, transportation, and other items which are necessarily relevant to the education of such children. In interpreting and carrying out the provisions of this act, the term *deaf-blind children,* whenever used, shall be construed to include any child whose combination of handicaps of deafness and blindness prevents him/her from profiting satisfactorily from educational programs provided for the blind child or the deaf child. *Otherwise severely handicapped children*, wherever used, shall be construed to include any child whose handicap or combination of handicaps prevents him/her from profiting satisfactorily from educational programs provided through a sponsoring public school district in this state. Additional information regarding application forms and payment procedures may be found in the program guidelines for the severely multiply handicapped/deaf-blind.

PROCEDURES FOR OBTAINING SPECIAL EDUCATION REIMBURSEMENT

Any district requesting reimbursement under the Special Education for Exceptional Children Act shall submit prescribed forms to the State Department of Education. Every district shall make such periodic and special reports of statistical and financial information as requested by the State Board.

SCHEDULE FOR PAYMENTS TO DISTRICTS

If, after receipt of the required reports from the administering units, the Kansas State Department of Education is satisfied that the programs maintained during the school year have been in accordance with law, payment shall be made on the following schedule:

1. October 15: Payment based upon an amount equal to 25 percent of the estimated entitlement per full-time teaching equivalency unit, less overpayments.
2. December 15: Payment based upon an amount equal to 50 percent of the estimated entitlement per full-time teaching equivalency unit, less October 15 payment.
3. March 15: Payment based upon an amount equal to 67 percent of the estimated entitlement per full-time teaching equivalency unit, less prior payments.
4. April 15: Payment based upon an amount equal to 84 percent of the estimated entitlement per full-time teaching equivalency unit, less prior payments.
5. June 25: Final payment which includes full entitlement (including transportation) less payments made in October, December, March, and April.
6. Reimbursement for summer programs is included in the October payment.
7. Individual claims for homebound and special purpose school contracts are included in the June payment.

Special education reimbursement will be based on the number of full-time equivalency teachers/paraprofessionals employed as of September 1. Any approved personnel employed after September 15 will be reimbursed at a rate equal to the proportion of the number of full months employed to the full school year (nine months). For example, if the FTE reimbursement was $17,022 and the employee was hired November 1, the local education agency would be entitled to .8 FTE x $17,022 = $13,618.00.

In the event that any district is paid more than it is entitled to receive under any distribution made under K.S.A. 72-978, the Kansas State Department of Education shall notify the district of the amount of such overpayment. Such district shall remit the amount of overpayment to the Kansas State Department of Education. The Kansas State Department of Education shall remit any money so received to the State treasurer, and the State treasurer shall deposit the same money in the State treasury to the credit of the general fund. If any district fails to remit, the Kansas State Department of Education shall deduct the excess amounts paid from future payments becoming due to such district. In the event any district is paid less than the amount to which it is entitled under any distribution made under this act, the Kansas State Department of Education shall pay the additional amount due at any time within the school year in which the underpayment was made or within sixty days after the end of such school year.

FACILITIES

DEFINITION

School facilities include any setting in which instruction and school related activities occur, such as classrooms, itinerant service areas, physical education areas, and playgrounds. These also include areas for extracurricular, dining, and athletic activities.

INTRODUCTORY STATEMENT

State and Federal legislation requires that all children have equal opportunity to a free and appropriate public education. In order for this to occur, all educational programs and services must be accessible to children with physical and sensory handicaps which impede mobility. Safety precautions also must consider children with various handicapping conditions, such as the hearing impaired who cannot respond to auditory warning signals. Section 504 of the Rehabilitation Act of 1973 (P.L. 93-112) and its effectuating regulations 45 CFR 84 detail the requirements of program accessibility. K.S.A. 58-1301 *et seq.* requires provisions for parking spaces and building accessibility for handicapped persons. In addition to Section 504, P.L. 94-142 mandates the provision of educational services for handicapped children in least restrictive educational environments. When handicapped children cannot be educated in the regular school setting, alternative placements, such as self-contained classrooms or special education schools, shall be comparable to other school facilities, services, and activities for nonhandicapped children.

PROGRAM ACCESSIBILITY

Existing Facilities

Educational programs in existing facilities must be made accessible to exceptional students. Schools are not required to make structural changes in existing facilities when the participation of a handicapped student in classes, services, or activities can be achieved through other alternatives. For example, when parts of a building are accessible, the school can reassign the necessary classes or activities to that part of the building. A paraprofessional can be assigned to assist the student in gaining entry to less accessible areas.

Section 504 of P.L. 93-112 requires that any school needing to complete structural changes develop a plan stating the steps necessary to complete the changes. Input from handicapped persons or advocacy groups is required in the development of this plan which then must be made available for public inspection. The contents of the plan are as follows:

1. Identification of the obstacles that limit accessibility,
2. Description of the methods to be used to make the facility accessible,
3. A schedule of changes, and
4. Indication of the person responsible for the implementation.

All necessary structural changes were to have been completed by June 1, 1980.

New Construction

Plans for construction of any new school facility shall assure accessibility, protection, health, and the least restrictive environment for exceptional children. This same requirement applies to new alterations or remodeling of existing facilities.

LEAST RESTRICTIVE EDUCATIONAL SETTINGS

Federal, State, and local laws explicitly state that to the maximum extent appropriate, each handicapped child shall be educated in the same setting provided for his/her nonhandicapped peers. When the location of special education programs is chosen, consideration should be given to the provision of opportunities for exceptional students to interact with regular students in academic and/or nonacademic settings K.A.R. 91-12-38 specifies:

(a) All facilities for exceptional children shall be comparable to those for non-exceptional children within the same school building.

(b) If any local education agency operates a facility solely for exceptional children, the facility and the services and activities provided in the facility, shall be comparable to those provided to nonexceptional children.

(c) Special teachers and special education supervisors shall be provided office space, secretarial assistance and telephone service.

Suggestions for facilities and equipment appropriate to specific program areas are included in those specific sections of this Plan. For legal requirements in modifying facilities for exceptional students, local education agencies may request assistance from School Facilities Section, Kansas State Department of Education.

EXCEPTIONAL CHILDREN ENROLLED IN PRIVATE SCHOOLS

STATE STATUTES AND REGULATIONS

K.S.A. 72-5393 and K.A.R. 91-12-39 set forth the responsibilities of school districts for exceptional children enrolled in private schools. These provisions are interpreted in Attorney General Opinions #81-27 and #81-43.

K.S.A. 72-5392 defines "private nonprofit school" as *an organization which regularly offers education at the elementary or secondary level, which is exempt from federal income taxation under section 501 of the federal internal revenue code . . . and attendance at which satisfies any compulsory school attendance laws of this state.*

"Denominational or parochial school" means a private school maintained by a religious body. The term "private school" shall be interpreted to include parochial schools. The special education services required by State statute and regulation must be provided to *all* exceptional children of school age. Therefore, school districts must make available to private school students the following services:

1. Screening and identification services,
2. Appropriate special education services, as specified in an individualized education program,
3. Transportation to special education services when necessary, and
4. Procedural due process.

The services provided to private school students must be comparable in quality, scope, and opportunity for participation to the services provided for public school students. However, if the needs of students enrolled in private schools are different from the needs of students enrolled in public schools, the local education agency must provide different services appropriate to individual needs. Special education services may be provided to private school students through such arrangements as dual enrollment, or mobile equipment. Direct services may not be provided to exceptional students in the parochial school setting. Diagnostic and screening services, however, may be provided on the premises of parochial schools.

K.A.R. 91-12-39 places the following restrictions on the use of State and Federal funds for the education of exceptional children enrolled in private schools. *Each local education agency shall:*

(1) Maintain administrative control and direction over special education services and related services provided by the local education agency to exceptional children attending private schools. In exercising administrative control, records and accounts for equipment shall be kept to ensure that equipment is used solely for the purposes of the specified program or project;

(2) ensure that state and federal funds for services to exceptional children in private schools are not used to pay the salaries of private school personnel; and

(3) ensure that state and federal funds are not used either to construct private school facilities or to purchase equipment for private schools.

In addition, each local education agency —

1. Shall provide instruction by public school employees for children attending parochial schools at a location other than the parochial school. The public school shall provide a religiously neutral location near the parochial facility and provide transportation to and from the facility.
2. Shall make available and provide special services to children residing in the LEA who are enrolled in private elementary and secondary schools. The LEA is not required to serve children who reside outside the LEA area but who attend private schools located within the LEA.
3. May provide services by employees of a public agency or through contract by the public agency with a person, an association, agency, or corporation who or which, in the provision of those services, is independent of the private school and of any religious organizations.

State and Federal funds must be used to meet specific needs of students enrolled in a private school rather than the needs of the private school or the general needs of the students enrolled in the private school. A local education agency may not use State and Federal funds to finance the existing level of instruction in a private school or to otherwise benefit the private school.

State and Federal funds for services for exceptional children in private schools may not be used for any salaries of private school personnel. However, payment may be made for contracted services of such personnel outside their hours of duty when the employee performs the services under public supervision and control.

REQUIREMENTS RELATED TO FEDERAL PROJECTS

As a condition of eligibility for receiving Federal funds administered by the State Department of Education for the education of exceptional students, Education Division General Administrative Regulations (EDGAR) require each local education agency to:

1. Provide students enrolled in private schools with genuine opportunity for equitable participation. Applicants for funds shall consult with appropriate private school personnel —
    a. During all phases of the development and design of the project covered by the application, including consideration of: which students will receive benefits; how the students' needs will be identified; what benefits will be provided and how these benefits will be provided; and how the project will be evaluated, and
    b. Before making any decision that affects the opportunities of students enrolled in private schools.

   These representatives shall be provided a genuine opportunity to express their views regarding the above listed subject matter.
2. Determine the needs of students enrolled in private schools, the number of those students who will participate in the project, and the benefits to be provided these students. This determination shall be made on a basis comparable to that used by the applicant to determine the participation of public school students.
3. Assure the expenditure of the same average amount of Federal funds on a student enrolled in a private school who receives benefits under the program and a student enrolled in public school who receives benefits under the program. A different

average amount may be expended on private school students benefiting from the program if the average cost of meeting their needs is different from the average cost of meeting the needs of public school students.

4. Maintain continuing administrative control over funds and property that benefit students enrolled in a private school. A local education agency must keep title to and exercise administrative control of all equipment and supplies placed or used in a private school. The local education agency must ensure that any equipment or supplies purchased with Federal funds and placed in a private school are used only for the purpose of the Federal project and can be removed from the private school without remodeling. Such supplies and equipment shall be removed from the private school when no longer needed for purposes of the project. Removal is also required to avoid use of the equipment or supplies for other than project purposes.
5. Include the following information in its application.
    a. A description of how the applicant will meet the Federal requirements of 45 CFR 76.651-662 for participation of students enrolled in private school;
    b. The number of students enrolled in private schools who have been identified as eligible for benefits under the program;
    c. The number of students enrolled in private schools who will receive benefits under the program;
    d. The basis the applicant used to select the students;
    e. The manner and extent to which the applicant complied with the requirements for involvement of appropriate private school personnel in planning and implementing the project;
    f. The places and times that the students will receive benefits under the program; and
    g. The differences, if any, between the program benefits the applicant will provide to public and private school students, and the reasons for the differences.
6. Assure that special education classes are not organized separately on the basis of school enrollment or religion of the students if the classes are at the same site and/or the classes include both private school and public school students.
7. Assure that program funds are not used for the construction of private school facilities.
8. Assure that eligible children residing in the LEA, who are enrolled in private elementary or secondary schools within the LEA have special education services available to them and are provided those services. However, the LEA is not required to provide services to eligible children in a private school when the parent or lawful custodian has indicated a desire that the children not participate in and/or not receive these special services.

Counting Private School Exceptional Students for State and Federal Funding

Any exceptional student dually enrolled in a private school and public school on September 20 may be included in the public school's full-time equivalency (FTE) enrollment. Students may be counted for any portion of an FTE enrollment.

All private school handicapped students receiving special education services as specified in a current individualized education program should be included in a district's December 1 head count for funding under P.L. 94-142.

State special education reimbursement may be claimed for costs incurred in transporting exceptional private school students to public school special education programs.

PROCEDURAL RESPONSIBILITIES

SCREENING, EVALUATION, PLACEMENT, AND REVIEW PROCEDURES

INTRODUCTORY STATEMENT

Kansas legislation charges the State Board of Education with responsibility for establishing *criteria for screening, diagnosis and certification of exceptional children including physical, educational, and psychological examinations* (K.S.A. 72-963). Kansas schools are required to provide basic vision and hearing screening without charge to every pupil (K.S.A. 72-5205 and K.S.A. 72-1205). The following policies and procedures have been adopted by the State Board of Education in order that all exceptional children in the state may be located, evaluated, identified, and provided appropriate special education programming. These policies and procedures are compatible with the requirements of the Education of the Handicapped Act as amended by P.L. 93-380 and P.L. 94-142 and Section 504 of the Rehabilitation Act of 1973.

LOCAL EDUCATION AGENCY RESPONSIBILITIES

To provide appropriate educational programs for all exceptional children, local education agencies are responsible for the following:

1. Systematic screening procedures;
2. Comprehensive and nondiscriminatory evaluation/diagnosis and identification/certification;
3. The development of an individualized education program which ensures placement of the child in an appropriate service model and specifies the objectives, implementation, and evaluation of the child's educational program; and
4. The provision of periodic review and readjustment of the child's program.

CRITERIA FOR SCREENING/DIAGNOSIS

Screening is the first step in the identification of exceptional children, but it is not a special education action. Screening procedures consider all children in a given population in order to locate those who may be in need of special education services. Because all children participate in screening activities, prior written parental consent is not required. No child shall be placed in any special education program solely on the basis of screening activities.

K.A.R. 91-12-40(a) requires — each local agency to *implement systematic and on-going screening procedures which identify school age children who may require special education services. Screening is the first phase in the identification of exceptional children and shall not be used as a basis for placement or programming.* The procedures that must be implemented are as follows:

(1) Procedures shall include:
(A) Mandatory hearing and vision screening;
(B) an age appropriate developmental instrument or procedure designed to identify possible physical, intellectual, social or emotional, language or perceptual deviations; and
(C) any other instruments or procedures needed to supplement the above.

Such instruments/procedures may include the following:

- Teacher and parent referrals or self-referral by students,
- Behavioral checklists,
- Group achievement and/or intelligence tests,
- Adaptive behavior observations,
- Teacher/parent observation, and
- Other techniques developed locally by multidisciplinary efforts.

After screening has been completed, the screening committee shall make the appropriate follow-up necessary for the student. When the child's performance indicates the possibility of the presence of a handicapping condition or giftedness, he/she shall be referred for preassessment.

PRESCHOOL SCREENING

Preschool screening of children is required. Preschool means birth to school age as defined in K.A.R. 91-12-22. The focus of preschool screening may be the location of children with suspected developmental problems. Mass screening need not be undertaken if a local education agency conducts appropriate public awareness activities and actively recruits the participation of parents who suspect that their child may have a handicapping condition. Screening services must be made available to preschool children about whom parents are concerned in regard to future educational progress. The minimum screening includes all of the following:

(1) *Each local education agency shall implement screening procedures to identify preschool children who may need special education. These screening services shall be made available a minimum of once a year.*

(2) *At a minimum, preschool screening procedures shall use developmental or age-appropriate instruments or measures for all of the following:*

(A) *Hearing screening, including testing of middle ear function and behavioral audiometry;*

(B) *vision screening, including behavioral and observational signs of vision problems in addition to basic vision screening;*

(C) *developmental screening which does not depend entirely on interview information, group tests, or intelligence testing. This screening shall include:*

(i) *communication skills;*

(ii) *gross and fine motor skills;*

(iii) *cognition;*

(iv) *social and emotional adjustment; and*

(v) *self-help skills* (K.A.R. 91-12-40(b)).

Local education agencies are encouraged to involve other local agencies serving preschool children with handicapping conditions. These local agencies and programs include but are not limited to Head Start, Developmental Child Care Centers, Public Health, Community Mental Health, Social and Rehabilitation Services, Developmental Disability Services, Child Care Associations, Advocacy Organizations, and Institutions of Higher Education. Interagency cooperation is possible in the areas of —

- Public awareness activities,
- Referral,
- Staff for screening, and
- Resources as possible service providers after the screening.

Each local education agency shall document activities to publicize preschool screening (K.A.R. 91-12-40(b)(3)). These activities may include the following:

- Radio announcements;
- Newspaper announcements;
- Flyers through schools, banks, church bulletins;
- Employers, commercial establishments, local agencies;
- TV/radio "talk" shows;
- TV/radio news; and
- Staff presentations at local organizations.

K.A.R. 91-12-40(b)(4) requires that — *After each preschool screening, each local education agency shall be responsible for:*

(A) Recommending local and statewide resources to the parents and sending records to the recommended resources as appropriate;
(B) keeping records on each child screened; and
(C) sending summary data to the state department of education.

PREASSESSMENT

K.A.R. 91-12-40(c) requires that — *No child enrolled in regular education shall be identified as exceptional until the multidisciplinary team has documented the following:*

(1) That the child has been presented with learning experiences which are appropriate for the child's age and ability levels; and
(2) that the child's potential for learning has not been achieved in that regular education environment.

Preassessment is the first phase in determining whether the educational needs of a student can be met within the regular classroom. Preassessment also provides support and assistance to regular classroom teachers so that they may deal effectively with students who exhibit learning and/or behavior differences. Preassessment is intended for all students who exhibit differences, including those with possible language or speech impairments and those who may have superior intellectual abilities.

CRITERIA FOR EVALUATION/DIAGNOSIS

Due Process in Preplacement Evaluation Procedures

The evaluation which is conducted to determine eligibility for special education and to provide the basis for developing an individualized education program is a special education action. K.A.R. 91-12-40 requires the initiation of a comprehensive individual evaluation whenever screening, referral, or lack of progress indicates that a child may be exceptional as defined by K.S.A. 72-962. The preplacement evaluation may not be initiated without affording the child and the child's parents due process. Due process also is afforded the child and his/her parents if the school denies their request for a comprehensive evaluation. Prior written notification of the school's proposed action and proper steps to obtain parental consent to that action is required. No child may be placed in special education prior to the completion of a comprehensive evaluation (K.A.R. 91-12-40(d)). (See PROCEDURAL DUE PROCESS section.)

Requirement for Evaluation Procedures

It is the intent of State and Federal law to ensure that children are not misclassified as exceptional because of inappropriate selection, administration, or interpretation of evaluation materials. Toward that end any preplacement evaluation and any subsequent reevaluation shall meet the following requirements of K.A.R. 91-12-40(d)).

(1) All evaluation procedures shall be nondiscriminatory as prescribed in K.S.A. 72-963.

(A) When any child is from a home in which English is not the principal language, the local education agency shall determine the language best understood by the child. The comprehensive evaluation or access to special education services shall not be postponed solely because that child cannot communicate effectively in English.

If the child's preferred language is not English, the school may do the following:

- Use a qualified evaluator fluent in both the child's primary language and in English. This is the preferred alternative and shall be the alternative used unless the local education agency can demonstrate that use of this alternative was clearly not feasible.
- Use an interpreter to assist the evaluator and child with language and testing.
- Select test instruments which lessen cultural factors and do not stress spoken language.

If a delay occurs while the local education agency locates appropriate test instruments or interpreters, a diagnostic prescriptive educational program may be implemented. However, any postponement of a comprehensive evaluation or access to special education services is to be strictly limited.

(B) If any child has sensory, motor, or speaking impairments, tests shall assess whatever factor the test purports to measure rather than reflect that child's impaired communication skills.

The following suggestions are for evaluating children with communication impairments:

- Non-language performance scales standardized on or adapted for the area of exceptionality involved;
- Visual communication techniques in place of, or in addition to, auditory techniques;
- Auditory communication techniques in addition to large print or transcribed braille tests; and
- An aide who is skilled in finger signing or total communication to assist the evaluator.

(2) The comprehensive evaluation shall be multidisciplinary and multisourced. No child shall be placed in special education on the basis of a single evaluation procedure, instrument or measure.

The evaluation must be based upon a variety of assessment procedures appropriate to the exceptionality manifested. (See each program area section.) The intensity and type of evaluation shall be determined by the nature of the child's strengths and weaknesses. A child may not be placed in special education on the basis of a single measure nor on the basis of tests normed as group tests. In all cases, consideration shall be given to the following:

- The child's developmental, psychological, social, and educational functioning;
- His/her physical health or sensory impairment which may influence learning; and
- The classroom and school learning climate.

Informal measures may be used to obtain information about the child's current level of functioning. Input from parents and other appropriate nonschool personnel are to be included to obtain a comprehensive view of the child.

(3) *If any child is suspected of having specific learning disabilities, the provisions of K.A.R. 91-12-58 shall be followed.**

(4) *Any test or other evaluation material used as a part of any comprehensive evaluation shall have been validated for the specific purpose for which the test or other material is used and shall be administered in conformance with the instructions provided by the producer of the test or material.*

(5) *Any test used as a part of any comprehensive evaluation shall be administered by a professional holding current certification or licensure to administer and interpret that test. Public school psychological evaluations shall be carried out only by an approved school psychologist certified by the Kansas state department of education or by an appropriately trained psychologist certified by the Kansas behavioral sciences regulatory board and reported to the Kansas state department of education.*

When school psychology or practicum students are in training, evaluations carried out by these students may be used for placement decisions if reviewed and signed by the supervising professional. Responsibility for the validity and reliability of any test results obtained by students and used to make placement decisions lies with the supervising professional.

(6) *The special education administrator of each local education agency shall certify that each child eligible for special education placement has had an appropriate and complete evaluation. For children who have a speech impairment as their only apparent exceptionality, a qualified speech and language clinician shall evaluate those children using procedures that are appropriate for the diagnosis and appraisal of speech and language disorders. The speech and language clinician shall verify the absence of learning or behavioral problems through examination of the child's records or conferences with parents and teachers, or both. If referral for an additional evaluation by other professionals is not indicated, the comprehensive examination may then be considered to be complete.*

(7) *After any child has been assessed in all areas related to a suspected disability, that child's evaluation team shall meet to determine whether the evaluation results indicate that the child meets eligibility criteria for special education services. The child's parents shall have the opportunity to attend this meeting or to have their opinions expressed by a designated representative or member of the team. If an evaluation team recommends a child for special education services, the evaluation results shall be made available for use in developing the individualized education program. In no case shall the decision to place a child in special education be made solely by one person, even though this person may have considered the data collected by all members of the evaluation team.*

(8) *Each comprehensive evaluation shall be completed within 40 school days following the referral* (K.A.R. 91-12-40(d)).

INDIVIDUALIZED EDUCATION PROGRAM

If it is determined as a result of the evaluation that a child is in need of special education services, an individualized education program (IEP) shall be developed. The individualized education program is a written statement of the special education and related services needed by a child based on his/her current level of functioning. It assigns responsibility for the delivery of these services, sets forth the anticipated changes in the child's behavior, and describes how these changes will be measured. Parents and, when feasible, the child must be given opportunity for active participation in its formulation.

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* Supplements for all categorical program areas and all related service areas are available from the Special Education Administration Section of the Kansas State Department of Education.

As described in K.A.R. 91-12-41(a), *An individualized education program (IEP) shall be developed for each child in need of special education services. The IEP shall be developed prior to placement in a special education program. This requirement shall not preclude temporarily placing an exceptional child in a special education program as part of the evaluation process before the individualized education program is finalized, if:*

(1) The child has been determined, through the comprehensive evaluation, to be eligible for special education, but more information is needed to determine the most appropriate placement;

(2) an interim individualized education program is developed which sets out the specific conditions and timelines for the trial placement;

(3) the child's parents give written consent to the interim placement before it is carried out;

(4) a specific period of time, not exceeding 30 days, is set for completing the evaluation and making decisions about the most appropriate placement; and

(5) a meeting is conducted at the end of the trial period in order to finalize the child's IEP.

The interim IEP provision is included to facilitate delivery of services to—

1. Children whose complex problems require extended diagnosis and trial placement.
2. Special education students with incomplete or missing records who change district of residence.

Other unusual circumstances may result in temporary placement, but it is not intended that an interim IEP be developed for all children being placed for the first time.

If an exceptional child has been receiving special education in one local education agency and moves to another community, it is not necessary for the receiving local education agency to conduct an IEP meeting if—

1. A copy of the child's current IEP is available;
2. The parents give written consent to the services specified in the IEP; and
3. The receiving local education agency agrees that the current IEP is appropriate and can be implemented as written.

If the child's current IEP is not available or if either school or parent believes that it is not appropriate, an IEP meeting shall be conducted.

Participants in Development

K.A.R. 91-12-41(b) requires that, *The IEP shall be written and subsequently reviewed and revised as needed, but at least annually, in a meeting which includes:*

(1) A representative or representatives of the local education agency, other than the child's teacher or teachers, who is qualified to provide or supervise the provision of, special education services;

For a child who has been evaluated for the first time, this person must have participated in the staffing conference and be qualified to interpret the written findings of the comprehensive evaluation to the parents. It is recommended that the local education agency be represented by a person who is authorized to make administrative decisions relative to the services to be provided.

(2) *the child's teacher or teachers;*

(A) *For any child who is receiving special education, the teacher shall be the special education teacher with primary responsibility for implementing the child's individualized education program. If the child's primary handicap is a speech or language impairment, the teacher shall be the speech or language clinician.*

(B) *For a handicapped child who is being considered for placement in special education, the teacher shall be the child's regular classroom teacher, or a teacher qualified to provide education in the type of program in which the child may be placed, or both.*

(C) *If the child is not in school or has more than one teacher, the local education agency shall designate which teachers will participate in the meeting.*

(3) *one or both of the child's parents and, when appropriate, the child; and*

(4) *other individuals who, in the opinion of the parents or the local education agency, are necessary to complete the IEP.*

Parents shall be notified of the individualized education program meeting early enough to ensure that they will have the opportunity to participate in developing the IEP. The notice shall indicate the date, time, location and purpose of the meeting and who will be in attendance. A reasonable attempt shall be made to schedule the meeting at a mutually agreed on time and place. Provision for interpreters or other facilitators shall be made for parents who are deaf or whose principal language is other than English (K.A.R. 91-12-41(c)).

If neither parent can attend, individual or conference telephone calls may be used to obtain parental participation. *If any local education agency is unable to obtain parental participation, the individualized education program meeting shall be conducted without this participation. In such cases, the local education agency shall document the attempts made to arrange the meeting. The documentation shall include records of telephone calls made or attempted, copies of correspondence, and records of home visits* (K.A.R. 91-12-41(d)).

A copy of the individualized education program shall be provided to each parent (K.A.R. 91-12-41(e)).

The IEP may be written in the staffing conference which culminates the comprehensive evaluation provided that —

1. Parents have been properly notified of this intent and given opportunity to participate, and
2. The legally required participants, as specified above, are in attendance.

Content of the Individualized Education Program

The individualized education program formalizes the process of designing instructional experiences for a child based on that child's specific needs as identified through a comprehensive evaluation. The IEP is a management document, a written statement of decisions about the objectives, content, implementation, and evaluation of special education services for an exceptional child. The intent of the law describing the content of the written IEP (Section 602 of P.L. 94-142) is to assure appropriate and individualized programming rather than to produce a legally correct piece of paper. Therefore, both the required components and the recommended procedures for developing each component are given.

Each individualized education program shall include the following (K.A.R. 91-12-41(f)):

CONTENT	*PROCESS*
(1) A statement of the child's present level of educational performance. The statement shall include, as appropriate, academic achievement, social adaptation, prevocational skills, sensory and motor skills, self-help skills, and speech and language skills;	1. For a child entering a special education program for the first time the statement of present level of educational performance should summarize the results of the comprehensive evaluation. When an IEP is being reviewed, the previous level of performance should be updated based upon current formal and informal evaluation of pupil progress. The statement should provide a profile of deficits and strengths from which instructional needs can be identified and prioritized. On the basis of the child's current level of performance, areas needing special assistance or intervention should be delineated. At this point the child's needs are not stated in terms of specific special education services, but rather in terms of priority instructional or curricular emphasis. The decision as to how, where, and by whom services will be delivered may not be made prior to the time an appropriate educational program is designed.
(2) a statement of annual goals which describe the educational performance anticipated within a year's time;	2. The IEP is not intended to provide daily lesson plans. Annual goals are written to give program direction to those persons who will be implementing the IEP. Each goal written should be directly related to some aspect of the child's current performance which, in the opinion of the conference participants, requires some type of special intervention. The entire curriculum need not be addressed. Annual goals should focus on a group or cluster of skills in one instructional area (such as vocational, social, motor, communication, academic). The number of goals written will depend upon the type and degree of the child's

CONTENT	*PROCESS*
	exceptionality. When prioritizing the annual goals, consideration should be given to the student's functioning within the least restrictive environment.
(3) a statement of short-term objectives which are measurable and intermediate steps between the present level of performance and the annual goals;	3. The purpose of the short-term objectives which must be written for each annual goal is to provide progress check points for the IEP implementer(s). The objectives should be sequential and measurable. They serve as a guide from which lesson plans may be developed.
(4) objective criteria, evaluation procedures, and data collection schedules for determining, at least every 12 weeks, whether the short-term objectives are being achieved;	4. The IEP document must show how and when pupil progress toward stated objectives will be measured. It is recommended that indices of progress (or lack thereof) also be recorded on the IEP. If goals and objectives have been set too high or too low, they should be revised. The school may not be held responsible if a child does not achieve the growth projected in the annual goals or short-term objectives.
(5) a statement of the specific special education services and related services needed by the child, even if not all of these services currently are available in the local education agency preparing the IEP. Any unique instructional media not ordinarily available to all students, but needed by this particular child for learning, shall be listed;	5. The decision as to the type and amount of special education services must be based on the needs of the child under consideration. The intent of the IEP process is to design a program for a child, not to fit a child into an existing program. Local education agencies are legally bound to designate all of the services needed for an appropriate educational program and to provide these services. If, at the time the IEP is written, the local education agency cannot provide a needed service, written justification as well as a time line for making the service available shall be included.

CONTENT	PROCESS
(6) a description of the extent to which the child will participate in regular classroom instruction. If regular classroom placement is not appropriate, the extent of participation in other less restrictive environments shall be described;	6. Parents must be fully informed of the nature of regular class participation, but it is recommended that the extent of participation in less restrictive environments be described in percentages, days per week, or hours per week. If the child will be in a regular physical education program, this should be noted.
(7) the projected date for the initiation of the prescribed services and anticipated duration of the services; and	7. Because the IEP must be reviewed/revised annually, the maximum anticipated duration of services is twelve months.
(8) a listing of the names and positions of the individuals responsible for implementation of the IEP.	

Time Lines

The individualized education program for an exceptional child who is receiving special education shall be reviewed/revised annually. The IEP conference may be held any time throughout the year, as long as a current IEP is in effect for each child who is receiving special education and related services.

For any exceptional child who is not yet receiving special education, the individualized education program shall be developed no later than 30 days from the date when it is determined that the child requires special education. These children shall remain in their current placement until the individualized education program is completed and parental permission is obtained or due process proceedings, including appeals, are completed (K.A.R. 91-12-41(g)).

Responsibility in Contractual Arrangements

The local education agency in which a child resides is responsible for the development and implementation of that child's IEP. *If a local education agency, through a contractual agreement, refers or places any child in another accredited special education program, the local education agency shall conduct an individualized education program conference and shall arrange for a representative of the receiving agency to participate. If a representative of the receiving agency cannot attend the meeting, the sending agency shall ensure participation by the receiving agency through other methods, preferably individual or conference telephone calls.* After a child has been placed, meetings to review and revise the IEP may, at the discretion of the sending agency, be initiated and conducted by the receiving agency. *The sending agency, however, shall ensure its involvement, as well as that of the child's parents, in any decision about that child's individualized education program. Both the child's parents and the sending local education agency shall agree to any proposed changes in the IEP before those changes are implemented* (K.A.R. 91-12-41(h)).

Parochial or Other Private School Enrollment

If any exceptional child is enrolled in a parochial or other private school and receives special education services from a public education agency, that public agency shall:

(1) Initiate and conduct conferences to develop, review, or revise an individualized education program for the child; and

(2) ensure that a representative of the parochial or other private school attends each individualized education program conference. If the representative cannot attend, other methods to ensure participation shall be used, such as individual or conference telephone calls (K.A.R. 91-12-41(i)).

Court Placements and Admissions to State Institutions

If any child is placed in a school district or state institution by court order, and the child is determined by the receiving agency to be exceptional, the receiving agency shall be responsible for developing and implementing an IEP for the child. If an exceptional child from a public school program is admitted to a state institution and the child has an IEP, the IEP shall be forwarded to the state institution for implementation and revision, as needed. Conversely, if it is determined by a state institution that an exceptional child shall be returned to the community, the receiving district shall be responsible for implementation and revision of the IEP of the child (K.A.R. 91-12-41(j)).

PLACEMENT AND REVIEW

Each exceptional child shall be educated in the least restrictive environment (K.A.R. 91-12-42(a)). This statement describes the right of exceptional children to be educated with their normal peers unless clear evidence is available that partial or full removal will provide an improved program for the child. In addition, no placement shall be considered permanent but shall be subject to ongoing review.

Placement in the above context, does not necessarily imply removal of the child from the regular school program, but may mean providing for his/her appropriate learning environment through a continuum of special services available in the regular school. (See Appendix C, LEAST RESTRICTIVE ENVIRONMENT.)

When implementing the level of service recommended in any exceptional child's individualized education program, each local education shall follow these procedures:

(1) Placement in any special education services shall be considered as a trial placement and shall be subject to review and additional team planning. Each child shall be returned progressively to as near a normal setting as possible (K.A.R. 91-12-42(b)(1)).

(A) At least every 12 weeks, a determination shall be made as to the need for change to more intensive or less intensive special education services, and to a less restrictive or more restrictive environment. This monitoring can be efficiently accomplished in schools where regular building level staffings among supportive staff (school psychologists, school social workers, and consulting teachers) and the principal and referring regular classroom teachers are held.

(B) If the building level concept for monitoring a child's progress is not being employed, it shall be the responsibility of the special education teacher serving the child to inform the administrator of special education if a change in programming is indicated. If desired, the special education administrator may designate the school psychologist who coordinated the comprehensive evaluation as the contact person for such reports.

(C) A notation that the short-term review was made shall be recorded in each child's IEP.

(2) Parents shall be kept apprised of the progress of their children.

(3) A conference shall be held annually to review and revise, as needed, each child's individualized education program.

(4) A comprehensive evaluation of an exceptional child shall be made any time conditions warrant or if any child's parent or teacher requests an evaluation. A comprehensive evaluation shall be made of each exceptional child not less than every three years.

(5) An informal follow-up to determine the status of any child for whom special education services have been terminated shall be carried out annually for at least two years following termination of the services (K.A.R. 91-12-42(b)).

The comprehensive reevaluation completed every third year shall address each area of the child's development as required for the initial comprehensive evaluation and shall be multidisciplinary and multisourced. This requirement does not indicate that the same tests must be used. Screening procedures or group tests cannot be used in place of an individualized assessment. Teacher and parent reports of progress and level of functioning may be included as part of the reevaluation.

PROCEDURAL DUE PROCESS

DEFINITIONS

Special Education Action

'Special education action' means any act on the part of a local education agency by which a child is:

(1) *Excluded, reassigned, or transferred from regular school classes upon the basis that the child is an exceptional child and cannot benefit from these classes;*
(2) *placed in, transferred to or from, or denied placement in special education services. Special education action includes:*

(A) *Any initiation or refusal to initiate a comprehensive evaluation to determine eligibility for special education services; and*
(B) *any change in programming which alters the type or intensity of special education services offered an exceptional child* (K.A.R. 91-12-22(oo)).

Consent

'Consent' means that parental approval for a special education action has been given after the parent has been fully informed of all information relevant to the activity for which consent is sought, including a description of that activity. Signed parental consent shall be valid only for the activity described. K.S.A. 72-972 states that the parent of the involved child may revoke his or her consent to the proposed action at any time and may, but is not required to, request the hearing provided for in this section of the law.

Parent

'Parent,' as used in these regulations (and this Plan), *means lawful custodian and educational advocate as defined in K.S.A. 72-962 and any amendments to that statute* (K.A.R. 91-12-22(z)). The term *'parent'* in K.S.A. 72-962 *means a natural parent, an adoptive parent, or a stepparent.*

Person Acting As Parent

The term *'person acting as parent'* as used in K.S.A. 72-962 *means a person, other than a parent, who has physical or legal custody of a child, or is by law liable to maintain, care for, or support the child, or is contributing the major portion of the cost of support of the child.*

Lawful Custodian

The term *'lawful custodian'* in K.S.A. 72-962 *means a parent or a person acting as a parent. If none of the above is known or can be found, an agency shall cause proper proceedings to be instituted pursuant to the Kansas code for care of children to determine whether a child is a child in need of care. For a child whose custodian is the secretary of social and rehabilitation services, the term lawful custodian means the secretary except, when used in K.S.A. 72-972 through 72-975, and amendments to such sections, the term means an education advocate.*

Education Advocate

The term *'education advocate'* as used in K.S.A. 72-962 *means a person appointed by the state board in accordance with the provisions of K.S.A. 38-1513a, and amendments thereto. A* *person appointed as an education advocate for a child shall not be (1) an employee of the agency which is required by law to provide special education services for the child, or (2) an employee of any other agency which is directly involved in providing educational services for the child, or (3) any person having a professional or personal interest which would conflict with the interests of the child.*

Public Expense

'Public expense' means paid or otherwise provided by a local education agency with no cost to the parent (K.A.R. 91-12-22(cc)). The local education agency either pays for the full cost of services or ensures that the services are provided.

Independent Educational Evaluation

'Independent educational evaluation' means an evaluation conducted by one or more qualified examiners who are not employed by the local education agency responsible for the education of the child (K.A.R. 91-12-22(p)).

CHILDREN'S RIGHTS POLICY

If special education action is proposed in regard to any person who is 18 years of age or older and the person has not been legally adjudicated to be an incapacitated person, due process shall be granted only to the person (K.A.R. 91-12-44(d)).

INTRODUCTORY STATEMENT

The rights of a child in regard to special education actions are guaranteed in Kansas laws, rules, and regulations. Parents and/or the child must be given a complete and clear explanation of any school action which proposes to initiate, refuse, or change special education services. They also have the opportunity to participate in decisions made during evaluation and placement procedures toward the end of reaching consensus as to the appropriate educational program for the child. Procedural due process begins when a parent, child, or local education agency requests the initiation of a comprehensive evaluation to determine the child's eligibility for special education services. Ideally, the school and the home will work closely together; and both will be in agreement about the course of action most beneficial for the child. If there are differences between the school and the home, every attempt should be made by both parties to resolve these differences through conferences, negotiations, or mediation. Only if the differences are irreconcilable should the legal remedy of due process hearing and appeal procedures be invoked.

LOCAL EDUCATION AGENCY DUE PROCESS POLICIES

The board of education of each school district shall:

- *(1) Draft and adopt special education due process procedures which are in compliance with requirements of K.S.A. 72-972 to K.S.A. 72-975, inclusive, and any amendments to these statutes; and*
- *(2) be responsible for all due process proceedings* (K.A.R. 91-12-44(a)).

A copy of the due process procedures must be on file with the Kansas State Department of Education as a part of the local comprehensive plan for special education.

Member districts of a special education cooperative or interlocal agreements may draft jointly a set of due process policies, subject to adoption by the board of education of each member district. Member districts in a special education cooperative are individually responsible for implementing due process procedures, including conducting any hearing requested by a resident parent/child. Interlocal units duly authorized under K.S.A. 72-8230 have the same rights and responsibilities as a local school district in implementing due process procedures and may conduct hearings for member districts.

The state board of education shall adopt due process proceedings for the Kansas state school for the visually handicapped and the Kansas state school for the deaf, and the secretary of social and rehabilitation services shall adopt special education due process proceedings for other state institutions (K.A.R. 91-12-44(b)).

DESIGNATION OF LAWFUL CUSTODIAN

Intent

It is the intent of State and Federal law that each child have a lawful custodian to represent his/her interests in all special education matters. In most cases the lawful custodian will be a parent, a person acting as a parent, or a legal guardian. When the parent, other caregiver, or guardian is unknown or unavailable, a lawful custodian must be appointed before any special education action is taken by the local education agency on behalf of the child. The person determined to be the lawful custodian has all of the rights guaranteed to children and parents under K.S.A. 72-972 to 72-975 inclusive.

Educational Advocate Qualifications

Under K.S.A. 72-963c, the State Board of Education is authorized to establish qualifications for educational advocates. K.A.R. 91-12-71 states that *(a) Any person appointed as an educational advocate shall:*

(1) Be at least 18 years of age;

(2) have completed a training program respecting the powers, duties and functions of a lawful custodian; and

(3) have presented three references for appointment as an educational advocate.

(b) Any person appointed as an educational advocate shall:

(1) Vigorously protect the child's rights in the education and decision-making process including the identification, evaluation and placement of the child;

(2) comply with applicable confidentiality requirements imposed by state and federal law;

(3) actively participate in the development of the child's individualized education program; and

(4) diligently exercise all the other rights given to lawful custodians under the special education for exceptional children act.

Education Advocate Training Programs

The State Board of Education provides special training programs for education advocates regarding the powers, duties, and functions of lawful custodians. *Lawful custodians who are education advocates shall, and all other lawful custodians* (parents or persons acting as parents) *may, participate in the special training programs* (K.S.A. 72-963c(b)).

Education Advocate Appointments

K.A.R. 91-12-72 requires that the following provisions be met for the appointment of a lawful custodian: *(a) An educational advocate shall be appointed for a child who is in the custody of the secretary of social and rehabilitation services and who is known to be or is suspected of being exceptional if:*

(1) The parental rights of the parents of the child have been terminated; or
(2) the child's lawful custodian is unknown or unavailable.

(b) The State Board of Education or its designee shall appoint each educational advocate. Each educational advocate shall meet the qualifications prescribed in K.A.R. 91-12-71. In appointing each educational advocate, the following rules shall be observed:

(1) If a child is in a state institution, the appointed educational advocate shall not be a social and rehabilitation services employee;
(2) if a child is in a permanent foster care placement, the educational advocate may be the foster care provider;
(3) if a child is in a constant foster care placement and is expected to remain in that placement for one year, the educational advocate may be the foster care provider; and
(4) if a child is not in a state institution, the educational advocate may be a social and rehabilitation services social worker.

Local Education Agency Responsibility

Before taking any special education action in regard to any child, each local education agency shall:

(1) Attempt to determine who is the lawful custodian of the child;
(2) if the lawful custodian of the child cannot be determined or cannot be found, cause proper proceedings to be instituted, pursuant to the Kansas code for care of children, to determine whether the child is in need of care;
(3) if the lawful custodian of the child is the secretary of social and rehabilitation services, notify the appropriate area office of the department of social and rehabilitation services; and
(4) mail or personally deliver to the lawful custodian (educational advocate) *the written notice required by K.S.A. 72-972, and any amendments to this statute* (K.A.R. 91-12-44(c)).

NOTIFICATION OF PROPOSED SPECIAL EDUCATION ACTION

Written Prior Notice

Prior to taking any special education action, the local education agency is required to notify each child, or his or her parents. The notification must be given in writing by restricted mail or personal delivery. The notice must be written in language understandable to the general public and provided in the primary language of the home. If the native language or other mode of communication of the home is not a written language, the notice shall be orally translated into the primary language or other mode of communication of the home. Steps shall be taken to ensure that the parent/child understands the content of the notice. For example, parents may be asked to sign a written statement of understanding of rights.

No special education action may be taken until the local education agency has mailed or personally delivered written notice:

(1) Describing the proposed action and stating the reasons the action is deemed appropriate for the child. Evaluation procedures, tests, records, or reports upon which the action is based shall be included. This description shall state the options that were considered by the local education agency and the reasons for rejecting those options which are not proposed for the child;
(2) advising the parent of the right to consent or object, in writing, upon forms provided by the local education agency, to any proposed action;

(3) *advising the parent of the rights regarding procedural due process, including the right to a hearing;*

(4) *informing the parent that, if written consent is not given, the local education agency, on its own initiative, may request a due process hearing;*

(5) *informing the parent of any free or low cost legal services or other relevant services in the area;*

(6) *advising the parent of the right to have access to school reports, files, and records related to the proposed action; and*

(7) *advising the parent that the child will remain in the present education placement until a decision is made following a due process hearing or until the proposed educational action is consented to, in writing, by the parent* (K.A.R. 91-12-46(a)). If the action involves admission of a child to public school, parents must be advised that the child, with the consent of his/her parent, will be placed in a public school program pending completion of all proceedings.

Parents also must be informed that, if they desire further information related to special education rights and procedures, the State maintains a toll-free number (1-800-332-6262) which they may call. This program known as "Make a Difference," provides assistance and resource materials to any persons or agencies and is especially helpful if there is a need for conflict resolution prior to more formal due process hearing procedures.

PARENTAL CONSENT FOR PROPOSED SPECIAL EDUCATION ACTION

Preplacement Comprehensive Evaluation

Prior to the initial placement of an exceptional child in a special education program, a comprehensive evaluation shall be conducted in accordance with the requirements of K.A.R. 91-12-40. When a child is referred for a comprehensive evaluation, the parents shall be notified as specified above and given the opportunity for a personal conference concerning the reason for referral prior to the implementation of the evaluation. In addition to the requirements listed above, the prior notice shall: *Include a clear description of proposed evaluation procedures, including the kinds of tests used and the estimated duration of the evaluation procedure* (K.A.R. 91-12-45(a)(1)); *indicate the opportunity to obtain an independent evaluation of the child* (K.A.R. 91-12-45(a)(6)).

If the parent of the child gives written consent for the evaluation, it may be initiated immediately. If written consent is not given, action shall not be taken within a period of 30 days. This period shall be for the purpose of affording the parent an opportunity to indicate the parent's objections to the evaluation. If, after the 30 day waiting period, the parent has not given consent to the evaluation, the local education agency shall attempt to meet with the parent and explain the need for the evaluation and answer questions of the parent. If the parent still refuses to consent to the proposed evaluation, the local education agency shall either accept the decision, or apply to a court of competent jurisdiction for an order directing the evaluation, or pursue a local education agency initiated hearing in regard to the matter. Records of contacts and consultations with the parent shall be maintained by the local education agency (K.A.R. 91-12-45(b)).

Comprehensive Reevaluation

When an exceptional child has been placed initially in accordance with the requirements of this Plan, parental consent for reevaluation is not required providing that —

(A) *The child has been placed initially in accordance with the requirements of K.A.R. 91-12-44 through 91-12-48;*

(B) *the program is current and has been reviewed or revised annually; and*

(C) *the child's parents have been given prior written notice of the proposed re-evaluation* (K.A.R. 91-12-45(b)(1)).

Placement

Prior to the initiation or change of special education programming for a child, the child in question and/or his/her parents shall be given written prior notice as has been specified.

If the parent of the child gives written consent for the proposed action, it may be initiated immediately. If written consent is not given, action shall not be taken within a period of 30 days. This period shall be for the purpose of affording the parent an opportunity to indicate the parent's objections to the proposed action. If, after the 30 day waiting period, the parent has not given written consent to the proposed action, the local education agency shall attempt to meet with the parent and explain the need for the proposed action and answer questions of the parent. If the parent still refuses to consent to the proposed action, the local education agency shall either accept the decision or initiate a due process hearing in regard to the matter. Records of contacts and consultations with the parent shall be maintained by the local education agency (K.A.R. 91-12-46(b)).

PARENTAL RIGHT TO OBTAIN AN INDEPENDENT EVALUATION

Section 300.503, 34 CFR requires that parents be advised of their right to an independent educational evaluation. This requirement also is set forth in K.A.R. 91-12-45(c) as follows:

Each local education agency shall provide to parents, on request and when a notification of proposed action is given, information about where an independent evaluation may be obtained.

(1) *Right to evaluation at public expense.*

(A) *An independent educational evaluation shall be provided at public expense if the parent disagrees with the evaluation by the local education agency, unless the local education agency initiates a due process hearing to show that its evaluation is appropriate. If the final decision is that the school's evaluation is appropriate, the parent still has a right to an independent evaluation, but its expense shall not be required to be borne by the school. The results of the independent evaluation, however, shall be considered by the local education agency or any hearing officer, or both, in decisions made with respect to the provision of a free appropriate public education for that child.*

(B) *Whenever an independent evaluation is provided at public expense, the criteria under which the evaluation is obtained must be the same as the criteria which the local education agency uses when it initiates an evaluation. The credentials of the independent evaluator or evaluators shall be at least comparable to the credentials of the local education agency's evaluators. The local education agency shall not be responsible for the costs of unreasonably expensive independent evaluations when comparable evaluations can be obtained at a lesser cost.*

(2) *If any hearing officer requests an independent educational evaluation as a part of a hearing, the cost of the evaluation shall be at public expense.*

If the parent obtains an independent evaluation at private expense, the results of the evaluation —

a. Must be considered by the local education agency in any decision made with respect to the provision of a free appropriate public education to the child, and
b. May be presented at any special education due process hearing or review.

INDIVIDUALIZED EDUCATION PROGRAM

Special education programming shall not be initiated for a child prior to the development of an individualized education program. The individualized education program for each child receiving special education services shall be reviewed/revised annually.

The individualized education program is a written statement of the special education and ancillary services needed by a child based on his/her current level of functioning. It assigns responsibility for the delivery of these services, sets forth the anticipated changes in the child's behavior, and describes how these changes will be measured. Parents and, when feasible, the child must be given opportunity for active participation in the development, review, and revision of the IEP in a conference with appropriate school personnel. Specific requirements governing the IEP process are set forth in the SCREENING, EVALUATION, PLACEMENT, AND REVIEW section.

The IEP conference is an extension of the special education procedural safeguards guaranteed by State and Federal law. The purpose of the meeting is to ensure active and open parental involvement in formulating personalized educational goals for a child and designating the specific special education and related services needed to help that child achieve those goals. Local education agencies should view the IEP process as an opportunity to achieve consensus between home and school, which will prevent conflict resulting in a due process hearing.

Regarding parental participation in IEP meetings the local education agency shall take steps to ensure that one or both of the parents of the handicapped child are present at each meeting or are afforded the opportunity to participate, including —

1. Notifying parents of the meeting early enough to ensure that they will have an opportunity to attend.
2. Scheduling the meeting at a mutually agreed on time and place.
3. Indicating in the notice the purpose, time, and location of the meeting and who will be in attendance.
4. If neither parent can attend, using other methods to ensure parent participation, including individual or conference telephone calls.
5. If a meeting is conducted without parent attendance, recording attempts to arrange a mutually agreed on time and place, such as detailed records of telephone calls made or attempted and the results of those calls, copies of correspondence sent to the parents and any responses received, and detailed records of visits made to the parent's home or place of employment and the results of those visits.
6. Acting as is necessary to ensure that the parent understands the proceedings at a meeting, including arranging for an interpreter for parents/children who are deaf or whose native language is other than English.
7. Providing the parents with a copy of the IEP.

Parental signature on a child's individualized education program is not required as a matter of procedural due process. When the local education agency, after reasonable attempts, is unable to obtain parental participation, the IEP must be developed by school personnel. It is recommended that parents sign the IEP document to which they agree. Such signature shall not constitute permission for the proposed special education action, nor shall failure to sign constitute a parental objection to the proposed special education action.

ALTERNATIVES TO DUE PROCESS HEARINGS

The intent of State and Federal special education due process requirements is to protect children from thoughtless or capricious actions by schools or by parents. Usually parents and school personnel assume their proper responsibilities in regard to the education of children and have little or no difficulty in reaching mutual agreement about the initiation, continuation, or termination of special education services.

The statutory provisions of prior notice to parents, multidisciplinary evaluation and staffing, the IEP conference, and informed parental consent should be regarded as measures which enhance communication between the home and school and prevent misunderstandings or conflicts. All of the parent-school contacts required prior to a special education placement can be used by the school to discover parental concerns and to deal humanistically with these concerns. The school can explain clearly and honestly the child learning problems, the proposed special education interventions, and the anticipated benefits for the child. Both parties should be open to exploration of alternatives which will benefit the child.

Informal Prehearing Procedures

The following procedures are recommended as additional steps which may be taken by the school to prevent conflict situations requiring resolution through a due process hearing.

1. Inservice for administrators, teachers, and support staff on communication skills and conferring with parents of exceptional children.
2. Public dissemination of information on local special education services and parent/child rights.
3. Informal mediation or conflict resolution procedures to precede any scheduled due process hearing or formal prehearing activity.
4. Meetings or workshops for parents and other persons in the community.

LOCAL EDUCATION AGENCY DUE PROCESS HEARING

If there are irreconcilable differences between parents and the local education agency as to the appropriateness of a proposed special education action, both parties are afforded an opportunity for resolution through an impartial due process hearing. *The request for a due process hearing shall be made, in writing, to the local board of education, the state board or the secretary of social and rehabilitation services, as appropriate. If a request for a due process hearing is received, the statutory provisions in article 9 of chapter 72 of Kansas statutes annotated shall become operative and shall be followed* (K.A.R. 91-12-47(a)).

Parent Initiated Hearing

Parents may request a hearing which must be held within thirty days from the date on which the request is received by the local education agency. The request for a hearing should be made in writing to the board of the local education agency. Upon receipt of such a request, the board shall appoint an impartial hearing officer(s).

Local Education Agency Initiated Hearing

If the local education agency requests a hearing, the hearing shall take place within thirty days from the date on which written notice of the hearing has been received by the parents. Said notification shall not be sent to the parent prior to (1) the local education agency's receipt from the parent of written objection to the special education action in question, or (2) the elapse of the thirty day response period which is granted to the parent in regard to the proposed special education action in question, in the instance where the parent fails to consent or object to said special education action.

Impartial Hearing Officer

In accordance with K.S.A. 1983 Supp. 72-973(c), the hearing officer shall not be a member of the State Board of Education, the Secretary of Social and Rehabilitation Services, a member of any local board involved in the education of the child or any person who —

1. Is responsible for recommending the proposed action upon which the due process hearing is based.
2. Has a personal or professional interest which would conflict with objectivity in the hearing, or
3. Is an employee of any agency involved in the education of the child.

Each local education agency shall maintain a current list of due process hearing officers as a part of their local comprehensive plan or local comprehensive plan update. Such list shall include a statement of the qualifications of each hearing officer. The local education agency should not incorporate the entire state approved list of hearing officers into their own list of hearing officers. Only the names of those approved hearing officers who have been personally contacted and who have consented to serve as a hearing officer for the local education agency should be included on the list of approved hearing officers contained in the local comprehensive plan.

Hearing Officer Qualifications

Subject to the provisions of K.S.A. 1983 Supp. 72-973a, the local education agency shall appoint a hearing officer for the purpose of conducting the local due process hearing. K.A.R. 91-12-68 states — *(a) The state board and each local education agency shall compile and maintain a list of qualified hearing officers who have completed a state agency conducted or approved training program.*

(b) A qualified hearing officer shall be able to:

(1) demonstrate, by passing a written test with a score of 80 percent or higher, general knowledge of special education programs and procedures;

(2) demonstrate, by passing a written test with a score of 80 percent or higher, knowledge of the laws, rules and regulations, requirements and guidelines related to conducting a due process hearing; and

(3) demonstrate, by passing a written test or simulation exercise with a score of 80 percent or higher, the ability to plan and conduct a due process hearing.

Hearing Officer Training Programs

Any person or institution may apply for approval of a training program. The state board shall notify each applicant of the approval or disapproval of the application. Each application shall be approved or disapproved upon the basis of an evaluation of the following factors:

(1) *whether the program provides a minimum of 16 clock hours of instruction in program content and testing of trainee performance;*

(2) *whether the program contains a minimum of four clock hours of instruction each from those areas described in paragraphs (1), (2), and (3) of subsection (b) of this regulation;*

(3) *the manner in which the content is to be taught and the written or simulation tests used to determine if program trainees meet or exceed a score of 80 percent on the content;*

(4) *verification that instructional staff members have completed an approved training program, have served as hearing officers, or are otherwise qualified by training or experience to provide instruction in program content; and*

(5) *the process used to send the names of trainees who meet the standards of paragraph (b) of this regulation to the state board* (K.A.R. 91-12-68(c)).

Local Education Agency Appointment of Hearing Officers

K.A.R. 91-12-69 requires that the following provisions be met in the appointment of a hearing officer: *(a) Not more than three days after a hearing has been requested under the provisions of K.S.A. 72-972 and any amendment thereto, the agency providing for the hearing shall furnish to the lawful custodian of the involved child:*

(1) *A list of the agency's prospective hearing officers;*

(2) *written notification that the lawful custodian has the right to request disqualification of any or all of the hearing officers on the list and to request the state board to appoint a hearing officer under the procedures prescribed in K.S.A. 1983 Supp. 72-973a, and any amendments thereto, and this rule and regulation; and*

(3) *written notification that the lawful custodian has five days from the date of receiving the list of hearing officers to advise the agency of any officer whom the lawful custodian wishes to disqualify.*

(b) *If the lawful custodian desires to disqualify any or all of the hearing officers on the list provided by the agency, the lawful custodian shall notify the agency, not more than five days after receiving the list, of the person or persons who are disqualified. The agency may appoint from its list any hearing officer who has not been disqualified by the lawful custodian.*

(c) *Not more than three days after receiving notification that all of its hearing officers have been disqualified by a lawful custodian, an agency shall submit a written request to the state board for a list of the names and qualifications of five hearing officers. This request shall state the names of the hearing officers of the agency who were disqualified by the lawful custodian.*

(d) *Not more than three days after the state board receives a written request from an agency for a list of hearing officers, the state board shall provide both the agency and the lawful custodian with a list of five prospective hearing officers and the qualifications of each such officer. The list provided by the state board shall not include the name of any hearing officer disqualified by the lawful custodian.*

(e) *When the agency receives the list of prospective hearing officers provided by the state board, the agency shall arrange a meeting or phone call with the lawful custodian to establish which name or names each party wants removed from the list.,*

(f) *The state board shall appoint a hearing officer from the list determined as prescribed in subsection (e). Such appointment shall be made by the state board not more than three days after receiving the list from the agency.*

(g) *The computation of any period of time prescribed in this rule and regulation shall be determined in accordance with the provisions of K.S.A. 60-206 and any amendments thereto.*

Those provisions, as specified in K.S.A. 60-206 state that, in computing the time period, the day from which. . .

(a) *the designated period of time begins to run shall not be included. The last day of the period so computed is to be included, unless it is a Saturday, Sunday, or a legal holiday, in which event the period runs until the end of the next day which is not a Saturday, Sunday, or a legal holiday. When the period of time prescribed or allowed is less than seven (7) days, intermediate Sundays and holidays shall be excluded in the computation. A half holiday shall be considered as other days and not as a holiday. 'Legal holiday' includes any day designated as a holiday by the congress of the United States, or by the legislature of this state.*

State Education Agency Appointment of Hearing Officers

The State Board of Education is responsible for the due process proceedings of the Kansas State School for the Deaf and the Kansas State School for the Visually Handicapped. Subject to the provisions of K.S.A. 72-973a(b), the State Board of Education shall —

1. Make its list of hearing officers available to the lawful custodian of the involved child;
2. Inform the lawful custodian of the right to select a hearing officer from the list; and
3. Appoint the hearing officer selected by the lawful custodian to conduct the hearing.

Responsibilities of the Hearing Officer

K.A.R. 91-12-47(b) states — *The hearing officer shall be responsible for assuring that due process is afforded both parties to the hearing. The hearing officer shall:*

(1) *Verify, through personal or telephone contact, that the parent understands the parent has the right to have an independent evaluation of the child performed, and has the right to have access to school reports, files, and records relating to any proposed special education action;*

(2) *verify, through personal or telephone contact, that both the parent of the child and school officials understand the rights of parties in a due process hearing as specified in K.S.A. 1984 Supp. 72-973.*

These rights, as specified in K.S.A. 72-973 are --

a. *The right of the parties to have counsel of their own choice present and to receive the advice of such counsel or other person whom they may select;*
b. *The right of the lawful custodian of the child to be present at the hearing;*
c. *The right of the child, the lawful custodian of the child and their counsel or advisor to hear or read a full report of the testimony of witnesses responsible for recommending the proposed action and of any other material witnesses;*
d. *The right of the parties and their counsel or advisor to confront and cross-examine witnesses who appear in person at the hearing, either voluntarily or as a result of the issuance of a subpoena;*
e. *The right of the parties to present witnesses in person or their testimony by affidavit, including expert medical, psychological, or educational testimony;*
f. *The right of the child to testify in his or her own behalf and give reasons in opposition to the proposed action;*

g. *The right of the parties to prohibit the presentation of any evidence at the hearing which has not been disclosed to the opposite party at least five (5) days prior to the hearing;*

h. *The right of the parties to have an orderly hearing;*

i. *The right of the child to a fair and impartial decision based on substantial evidence; and*

j. *The right of the parties to have a record of the hearing made by mechanical or electronic recording or by an official court reporter.* (See K.A.R. 91-12-47(c).)

(3) *make arrangements for an interpreter, if necessary. At all stages of the due process procedures, parents or children who are deaf, or who have a hearing impairment or other sensory disability, and non-English speaking parents or children shall be provided with an interpreter at public expense;*

(4) *at least 10 days prior to the hearing, notify each party, in writing, of the provisions of K.S.A. 1984 Supp. 72-973(a)(7);* (See (2) g above.)

(5) *at least five days prior to the hearing, notify the parents, in writing, of the time and place of the hearing which shall be at a time and place reasonably convenient to the parent;*

(6) *if necessary, request the clerk of the district court to issue subpoenas for the attendance of witnesses or the production of relevant records, or both;*

(7) *ascertain whether the exceptional child will attend or participate in the hearing. If any special education action is proposed for a person 18 years of age or older, and the person has not been adjudicated to be an incapacitated person, that person shall have right to attend the hearing. If any special education action is proposed for a child, the parent of the child shall have the right to determine whether the child shall attend or participate in the hearing. The decision of the parent of the child shall be made a part of the record of the hearing;*

(8) *ascertain whether the hearing is to be open or closed as prescribed in K.S.A. 1984 Supp. 72-973(a). This determination shall be made a part of the record of the hearing; and*

(9) *preside at the hearing and conduct the proceedings in a fair and impartial manner to the end that all the parties involved in the hearing have an opportunity to present their evidence and testimony.*

Predisclosure Requirement

At least five days prior to the hearing each party will be furnished with a hearing agenda which includes a written summary of the evidence and a comprehensive list of the representatives/witnesses. It is recommended that this responsibility be discharged at a pre-hearing conference with the parties in order that the real issues of the hearing may be clarified. If the conflict between home and school is a problem in communication, this meeting may provide a vehicle for resolution.

Decision of the Local Hearing

As required by K.S.A. 72-973(c):

Whenever a hearing officer conducts any hearing, such hearing officer shall render a decision on the matter not more than ten days after the conclusion of the hearing and shall prepare a written report thereon to the agency providing for the hearing.

K.A.R. 91-12-47(d)(2) further provides that the decision be sent by restricted mail to each of the parties or to their respective representatives, within twenty-four hours after the decision is rendered.

After deletion of all personally identifiable information, a copy of the decision shall be sent to the state advisory council for special education (K.A.R. 91-12-47(d)(3)).

The written decision shall include findings of fact, conclusions of law, and reasons for these findings and conclusions. A summary of the proceedings at the hearings shall be made and include any materials or statements specifically requested by any of the parties to appear in the record. This summary shall be made available to the parties of the hearing. The decision of the hearing officer(s) shall be final, subject to appeal by either party in the manner provided for in K.S.A. 72-974.

APPEAL TO STATE BOARD

Review by State Reviewing Officer

An appeal for review of the local education agency hearing officer decision to the State Board of Education may be initiated by the child, his/her parents, or the local board of education. The appeal shall be made by filing a written notice of appeal with the State Commissioner of Education not later than ten days after receiving the written decision of the local due process hearing. The local education agency shall immediately submit the following to the State Board of Education —

1. A complete and certified transcript or record of the local hearing.
2. All affidavits, documents, and other evidence produced at the hearing.

Not later than twenty days after the notice of appeal is filed, a reviewing officer(s) appointed by the State Board of Education shall complete the following —

1. Examine the transcript of the hearing, including all affidavits, documents, and other evidence.
2. Determine whether the procedures at the hearing were in accordance with the requirements of due process.
3. Seek additional evidence, if necessary. If a hearing is held to receive additional evidence, the hearing shall be conducted in accordance with the requirements of K.S.A. 72-973.
4. Afford the parties an opportunity for oral or written argument, or both, at the discretion of the reviewing officer. If applicable, the parties shall be notified of their opportunity to present oral or written argument not later than ten days prior to the date on which such argument will be heard. All notices shall be sent by restricted mail.

Decision of the State Reviewing Officer

The reviewing officer shall render a decision not later than five days after the completion of the review. The reviewing officer shall decide the matter by affirming, reversing, or modifying the decision from which the appeal was taken and shall prepare a written report thereon to the State Board. The decision shall —

1. Include reasons for the findings.
2. Be based solely on evidence and oral argument presented during the review.
3. Be accompanied by a statement that the decision may be appealed to the district court as provided by K.S.A. 60-2101.

The decision of the State reviewing officer shall be sent to the parties by restricted mail.

GENERAL REGULATIONS OF HEARINGS AND APPEALS

Every hearing and review under Article 9 of Chapter 72 of Kansas Statutes Annotated shall be provided at no cost to the child or to the parents of the child. The costs of any hearing by a local board of education under K.S.A. 72-972 shall be paid by the school district in which the child resides.

Any person conducting a hearing or review may administer oaths for the purpose of taking testimony under the authority of K.S.A. 72-975.

Unless appealed, the decision resulting from any hearing or review is binding upon the local board of education, its officers, employees, and agents. Unless appealed, the decision resulting from any hearing or review is also binding upon the parents or guardians or upon the child if over the age of majority.

K.S.A. 72-977 reads as follows:

> *When a school district or a State institution provides special education services for exceptional children as required by this act, and a determination has been made as provided in K.S.A. 72-972 to K.S.A. 72-975, inclusive and amendments thereto, that a child is an exceptional child and special education services are necessary for such child, it shall be the duty of the lawful custodian of such exceptional child to require such child to enroll for and attend the special education services which are indicated by such determination.*

This requirement does not apply to gifted children or to lawful custodians of gifted children.

Any person conducting a hearing or review, at the request of either party, may grant specific extensions of time beyond the limitations specified in K.S.A. 1980 Supp. 72-973 and 72-974.

Any hearing officer, reviewing officer, or party to the hearing or review may request the clerk of the district court to issue subpoenas for the attendance and testimony of witnesses and the production of all relevant records, tests, reports, and evaluations under the authority of K.S.A. 72-975.

A person shall not be considered an employee of a local board of education solely because he/she is paid by the board to serve as a hearing officer. Any such appointment shall apply to a particular hearing or to a class of hearings as specified by the board in making the appointment.

EXCEPTIONAL CHILDREN IN STATE INSTITUTIONS

Each local board is responsible for the education of all exceptional children (as specified in K.S.A. 72-933 and 72-966) unless and until it has been determined that —

1. The education of an exceptional child cannot be achieved satisfactorily in any public school program,
2. The child meets criteria for admission to a State institution, and
3. The child is admitted to a State institution.

As stated in K.A.R. 91-12-48:

> *(a) The admission or refusal of admission to a state institution for treatment and rehabilitation in and of itself is not a special education action.*
>
> *(b) If any child is admitted to a state youth center the child shall be placed in an age*

appropriate education program until a determination is made as to the need for a comprehensive evaluation. If any child is evaluated and determined to be in need of special education services, an individualized education program conference shall be held no more than 30 days from the date the comprehensive evaluation is completed. Parental consent for a preplacement evaluation shall be required for any child placed in a state youth center. Because a comprehensive evaluation is part of the admission process for other state institutions, parental consent for preplacement evaluation shall not be required in those facilities.

(c) *All other procedural safeguards of due process and confidentiality and evaluation procedures shall be extended to all school age exceptional children housed and maintained in state institutions.* (Also refer to K.S.A. 72-970.)

PLACEMENT OF CHILDREN BY PARENTS OR GUARDIANS

If any exceptional child is offered free and appropriate special education services by the local education agency responsible for providing these services to the child, but the child's parent places the child in a private school, the parent shall assume full financial responsibility for the child's education. If a parent contends that the parent has been forced to seek and bear the cost of private schooling for any exceptional child because the responsible local education agency does not offer an appropriate special education service, and the local education agency disagrees with this contention, due process procedures may be implemented to resolve the disagreement and the question of fiscal responsibility (K.A.R. 91-12-49).

CONFIDENTIALITY

INTRODUCTORY STATEMENT

Following the precedent of national legislation, such as the Family Educational Rights and Privacy Act, the Vocational Rehabilitation Act of 1973 (Section 504), and portions of P.L. 94-142, Kansas legislation requires that the State Board of Education and the board of every school district *shall adopt a policy in accordance with applicable federal laws and regulations to protect the right of privacy of any student or pupil and his or her family regarding personally identifiable records, files, and data directly related to such student or pupil* (K.S.A. 72-6214).

The following policies have been adopted by the Kansas State Board of Education to assure the protection of the confidentiality of any personally identifiable data collected or maintained pursuant to the identification and evaluation of children for purposes of placement in special education.

NOTIFICATION POLICY

The State Board of Education and each local education agency shall be responsible for informing the public of policies and procedures established to assure the confidentiality of personally identifiable data, information, and records collected or maintained by the agency pursuant to the location, identification, evaluation, and educational placement of exceptional children. The notice shall be given in the native languages of the various population groups of the state.

PARENT/CHILD RIGHTS POLICY

The following rights must be assured in the confidentiality policies and procedures of all State agencies participating in the identification, location, and evaluation of children for purposes of placement in special education and related services. The Kansas State Department of Education shall also observe these requirements in protecting the confidentiality of any personally identifiable information which it collects and/or maintains on exceptional children.

1. Access Rights of Parents
    a. Parents or their duly authorized representative shall be permitted to inspect and review any personally identifiable data relating to their child without unnecessary delay (no more than forty-five days after the request has been made) and prior to any hearing relating to the identification, evaluation, or placement of the child. *(Note:* The agency may presume that the parent has authority to exercise this right unless the agency has been advised that the parent does not have the authority under applicable State law governing such matters as guardianship, separation, and divorce.)
    b. If any record includes data on more than one child, parents shall inspect and review only data relating to their child. If this is not feasible, parents must be informed of the data specific to their child.
    c. Parents shall be provided a response to reasonable requests for explanation or interpretation of the data by a qualified professional.

   - d. Records which name all persons obtaining access to a child's records (excluding parents and authorized employees of the agency), the date access was given, and the purpose for which the person was given access to the records shall be maintained.
   - e. A listing shall be kept of the types and locations of data collected and maintained by the agency. This listing shall be made available to parents upon request.
   - f. No charge shall be made to parents to search for or to retrieve data. The agency may charge a fee for copies of records which are made if the fee does not effectively prevent parents from exercising their right to inspect and review those records.

2. Rights to Hearing to Amend Records
   - a. Parents may request appropriate amendments to records which they believe to be inaccurate, misleading, or in violation of the privacy or other rights of the child.
   - b. Within a reasonable period of time, either (1) the records shall be amended as requested, or (2) the parents shall be notified of the agency's decision to refuse the request and advised of their right to a hearing in order to challenge the data.
   - c. Upon parental request, a hearing shall be conducted to determine whether or not the challenged data are inaccurate, misleading, or in violation of the legal rights of the child.
   - d. If a hearing is requested, it shall be held within a reasonable period of time after the request; and the parents shall be given advance notice of the time, date, and place of the hearing.
   - e. The hearing shall be impartial, that is, conducted by a party who does not have a direct interest in its outcome.
   - f. Parents may present evidence relevant to the issues and may be assisted or represented by individuals of their choice (including an attorney) at their own expense.
   - g. Parents shall be notified in writing, within a reasonable period of time, of the agency's decision. This decision shall be based solely upon the evidence of the hearing and shall include a summary of the evidence and the reasons for the decision.
   - h. If, as a result of the hearing, the agency decides that the record should be amended as requested, it shall so amend the record. If the agency decides not to amend the record, it shall inform the parents of their right to enter into the records a statement about the challenged data which gives their reasons for disagreeing with the decision of the agency. This statement shall be maintained in, and treated as part of, the child's records as long as the records or the contested portion thereof is maintained by the agency.
   - i. If parents are in disagreement with the results of the hearing, they may appeal to the Kansas State Department of Education which shall review the pertinent facts and attempt to resolve the disagreement through communications with the parents and the agency.

3. Parental Consent Policy

   If parental consent is denied in any of the following cases, the agency involved shall attempt to seek resolution through individual conference(s). If the parents still refuse to allow the proposed action, the agency shall either accept the decision or apply to a court of competent jurisdiction for an order directing the parents to comply. To this end, records of contacts and consultations with parents shall be maintained.

a. Parental consent shall be obtained before personally identifiable data are —
   (1) Disclosed to anyone other than officials of the agency collecting or using the data. (Section 438 of the General Education Provisions Act shall apply to educational agencies.),
   (2) Used for any purpose other than identification and evaluation for purposes of determining a need for special education and related services, and
   (3) Used for purposes other than those previously specified to the parent.

b. Parental consent shall be sought before a child is given a comprehensive evaluation as specified in this Plan.

SAFEGUARDS

The local education agency shall give assurance that —

1. The confidentiality of data shall be protected at collection, storage, disclosure, and destruction stages.
2. One official shall be designated by the agency to be responsible for assuring the confidentiality of any personally identifiable data.
3. Provision shall be made for instruction regarding the Federal laws and regulations, as amended, and State policies and procedures as set forth in this document for all personnel collecting or using personally identifiable data.
4. A current listing of the names of agency personnel who may have access to personally identifiable data shall be maintained for public inspection.

DESTRUCTION OF DATA

Destruction means physical destruction or the removal of personal identifiers so that data is no longer personally identifiable.

1. Each parent shall be contacted when personally identifiable information is no longer needed to provide educational services to the child and be informed of his or her right to request that the information be destroyed. If the parent or parents request that the information be destroyed, the agency shall comply. However, a permanent record of the student's name, address, and telephone number and of his or her grades, attendance record, classes attended, grade level completed, and year completed may be maintained without time limitation.
2. When informing parents about their rights in regard to the destruction of personally identifiable information, the agency should remind them that the records may be needed by the child for social security benefits or other purposes.
3. In the event that the local education agency is unable to contact a parent the agency shall document its efforts.

CHILDREN'S RIGHTS POLICY

When a child has reached the age of majority, eighteen years, the permission or consent required of and the rights accorded to parents of the child shall be required of and accorded to only the child provided the child has not been legally adjudicated to be an incapacitated person nor under the jurisdiction of a court as a child in need of care.

CLASS SIZE AND CASELOADS FOR PROGRAM AREAS

CLASS SIZE AND CASELOADS

TABLES FOR PROGRAM AREAS

BEHAVIOR DISORDERS

Table V*

Class Size & Caseload Limitations for Behavior Disorders Programs

Program Level	*Administrative Plan*	*Maximum Class Size and Caseload*
All Levels	*Consulting teacher*	*No more than 1/4 time to be spent with students.*
	Itinerant teacher	*15 — Increase to 18 with one or more paraprofessionals.*
	Resource room	*12 — No more than 8 at any one time. Increase to 16 with one or more paraprofessionals.* *The maximum chronological age or grade level span shall be no more than four years or grade levels at any time.*
	Special classroom	*8 — Increase to 10 with a paraprofessional. The maximum chronological age or grade level span shall be four years.*
	Special purpose schools (departmentalized by curricular content area)	*No more than 8 at any time in one classroom; increase to 9 with a full-time paraprofessional.* *No more than 35 students assigned to one teacher; increase to 45 with a full-time paraprofessional.*

* Table V is Table VI in Article 12 of Kansas Administrative Regulations.

EARLY CHILDHOOD HANDICAPPED

K.A.R. 91-12-51(f) states: *Class size and caseload limitations for early childhood handicapped programs are given in Table II. No class size or caseload shall exceed the program's ability to implement the individualized education programs of the children enrolled.*

TABLE VI*

Class Size and Caseload

Centerbased Group Programs

Teacher and Endorsement **	*Number of Paraprofessionals*	*Additional Staff for Severely Handicapped or Children Ages Birth to Three*	*Maximum Number of Children Per Class*	*Maximum Caseload of Handicapped Children*
		Special Classroom		
1 ECH	*0*	*1*	*4*	*8*
1 ECH	*1*	*1*	*8*	*12*
1 ECH	*1*	*2*	*8*	*16*
1 ECH & 1 SE Team	*1*	*1*	*12*	*24*
		Integrated Classroom		
1 ECH	*1*	*1*	*12 (5 handicapped)*	*10*
1 ECH	*2*	*1*	*12 (8 handicapped)*	*16*
2 ECH	*2*	***	*18 (12 handicapped)*	*24*
1 ECH & 1 SE Team	*2*	***	*18 (12 handicapped)*	*24*
		Regular Classroom		
1 EC and *1 ECH Consultant or* *1 SE Consultant*	*1*	*1*	*18 (3 handicapped)*	*16* *16*

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* Table VI is Table II in Article 12 of Kansas Administrative Regulations.

** *Approvable teacher endorsements include Early Childhood (EC), Early Childhood Handicapped (ECH), and other Special Education endorsements (SE). Other special education approvable professionals include FTE speech and language pathologists and therapists, occupational therapists, and physical therapists.*

*** *Not approvable for severely handicapped children or children less than three years old.*

Home-based, Individual Programs: Maximum Caseload for Each Early Childhood Handicapped Instructional Team

ECH Teacher	*Additional FTE Related Service Professionals**	*FTE Paraprofessionals Assigned to ECH Teacher*	*Caseload*
1	*0*	*0*	*16*
1	*0*	*1*	*20*
1	*0*	*2*	*24*
1	*0*	*3*	*28*
1	*1*	*0*	*28*
1	*1*	*1*	*32*
1	*1*	*2*	*34*
1	*1*	*3*	*36*
1	*2*	*0*	*38*
1	*2*	*1*	*40*
1	*2*	*2*	*42*

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* *Approvable teacher endorsements include FTE speech and language pathologists and other special education categorical endorsements. Other special education approvable professionals include occupational therapists, physical therapists, and school nurses.*

GIFTED

TABLE VII*

Class Size and Caseload for Programs for Gifted

Administrative Plan	*Maximum Number of Students to Be Served*	*Maximum Number of Students to Be Served with Full-Time Paraprofessional*
Consulting Teacher	*75*	*75*
Itinerant Teacher	*25*	*30*
Resource Room	*35*	*40*
Self-Contained	*20*	*25*

* Table VII is Table III in Article 12 of Kansas Administrative Regulations.

SPEECH/LANGUAGE

TABLE VIII*

	Consulting Teacher	*Itinerant Teacher*	*Resource Room*	*Special Room*
GROUP SIZE	*Individual or Group (through indirect service.)*	*Individual or small group. 3 students per session.*	*Individual or small group. 5 students per session.*	*10 students per speech or language clinician.* *15 students per speech or language clinician with a paraprofessional.*
TIME PER WEEK	*As needed.*	*2 to 5 times per week.*	*4 to 5 times per week.*	*Full-time placement.*
CASELOAD MAXIMUMS	*No limit.*	*25-55 students.*	*15-25 students.*	*15 students with paraprofessional.* *10 students without paraprofessional.*

* Table VIII is Table IV in Article 12 of Kansas Administrative Regulations.

HEARING IMPAIRED

The maximum class size for programs for children with hearing impairments shall be as prescribed in table V. If paraprofessionals are employed as a part of any of the following special class program models, the maximum caseload may be increased by three students. The chronological age span shall not exceed three years, unless permission is obtained from the special education administration section (K.A.R. 91-12-53(g)(2)).

TABLE IX*

Class Size and Caseload for Programs for Hearing Impaired

Administrative Plan	*Number of Students*
Special Self-Contained Class — Preschool	*6*
Special Self-Contained Class — Primary	*6*
Special Self-Contained Class — Intermediate	*8*
Special Self-Contained Class — Secondary	*8*
Special Self-Contained Class — Elementary (two or more levels combined)	*6*
Special Self-Contained Class — Secondary (two or more levels combined)	*8*
Itinerant	*15*
Resource Room	*As Needed*
Diagnostic Assessment	*As Needed*
Parent/Infant	*20 when parent and child are seen primarily on an individualized basis*
Residential	*The same maximums apply for delivery models listed above*
Regular Class	*No more than two hearing impaired students shall be assigned to the same regular classroom or regular classroom teacher.*

* Table IX is Table V in Article 12 of Kansas Administrative Regulations.

MENTAL RETARDATION

TABLE X

Class Size and Caseload Limitation for Semi-Independent EMR and Semi-Dependent TMR

Program Level	*Administrative Plan*	*Maximum Class Size and Caseload*
EMR Primary (Level I)	*Special Classroom*	*12* *Increased to 15 with one or more paraprofessionals*
EMR Intermediate (Levels II and III)		*15* *Increased to 18 with one or more paraprofessionals*
EMR Secondary (Level IV)		*15* *Increased to 20 with one or more paraprofessionals*
TMR Primary (Level I)		*8* *Increased to 11 with one or more paraprofessionals*
TMR Intermediate (Levels II and III)		*10* *Increased to 13 with one or more paraprofessionals*
TMR Secondary (Level IV)		*12* *Increased to 15 with one or more paraprofessionals*

The chronological age or grade level span shall not exceed 4 years.

AUTISM

TABLE XI*

Class Size for Special Classes for Autistic Students

Number of Students	*Teacher*	*Paraprofessionals*
1	*1*	*0*
2 - 3	*1*	*1*
4 - 6	*1*	*2*

* Table XI is Table VII in Article 12 of Kansas Administrative Regulations.

SEVERELY MULTIPLY HANDICAPPED/DEAF-BLIND

TABLE XII*

Class Size for Programs for Severely Multiply Handicapped and Deaf-Blind

Number of Students	*Teacher*	*Paraprofessionals*
1	1	0
2-4	1	1
5-8	1	2

* Table XII is Table VIII in Article 12 of Kansas Administrative Regulations.

SPECIFIC LEARNING DISABILITIES

TABLE XIII*

Class Size and Caseload for Learning Disabled Program

Program Level	*Administrative Plan*	*Maximum Class Size and Caseload*
All Levels	*Consulting teacher*	*No more than 1/3 time to be spent with students.*
	Itinerant teacher Shall not be assigned to more than 5 attendance centers	*18* *Increase to 24 with one or more paraprofessionals*
	Resource room	*18* *No more than 10 at any one time. Increase to 22 with one or more paraprofessionals.*
	Special classroom	*10* *Increase to 14 with one or more paraprofessionals*

* Table XIII is Table IX in Article 12 of Kansas Administrative Regulations.

VISUALLY IMPAIRED

The class size or caseload of each teacher of the visually handicapped children shall be established from the individualized education programs of the identified students served by that teacher (K.A.R. 91-12-59(d)).

APPENDICES

APPENDIX A

EXTENDED SCHOOL YEAR

Introduction

Handicapped children in Kansas are afforded the right to a free appropriate public education through the provisions of the Kansas Special Education for Exceptional Children Act (K.S.A. 72-961 through 72-981). At the Federal level, the Education of the Handicapped Act (EHA), 20 USC 1400 *et seq.* requires each state to assure that a free appropriate public education is available to all handicapped children, as set forth in the Act. Further provision for a free appropriate public education for all handicapped persons is required by the Vocational Education Act (20 USC 2301 *et seq.*) and Section 504 of the Rehabilitation Act of 1973 (29 USC 794).

Neither the law nor the regulations under EHA specify the length of the school year. In an attempt to determine the requirements for an extended school year, the courts have considered the intent of the Act. The consensus of the court cases mandate that the needs of each child must be individually considered to determine if the student requires the provision of extended school year services. In Kansas, these services would be provided during the summer in addition to the standard 180 days or 1,080 hours required by Kansas law. The IEP team will determine the need for extended school year services based on the significant educational regression of the student. Using this criterion, gifted students would not be eligible for these services; however, this does not preclude the LEA from providing summer school for gifted and handicapped students who do not meet this criterion.

I. DEFINITIONS

A. *Extended school year services* means state approved special education programs, alternative instructional arrangements, and/or related services made available to handicapped students beyond the completed 180 days or 1,080 hours of instruction as required by State statutes.

B. *Significant loss of previously acquired skills* means that a student will regress, as a result of a break in educational programming, to the extent that it is unlikely that the student will recoup, in 45 school days, previously acquired critical skills/behaviors.

II. POLICY STATEMENTS

A. The LEA shall provide a free appropriate public education to all handicapped students of school age within its jurisdiction.

FEDERAL AND STATE REQUIREMENTS/OPINIONS

20 USC 1401 Sec. 3(c)
34 CFR 104.33
K.S.A. 72-966

B. The Individualized Education Program (IEP) team determines if any handicapped student requires an extended school year in order for that student to receive an appropriate education. The student's IEP will indicate which extended school year services will be provided.

FEDERAL AND STATE REQUIREMENTS/OPINIONS

Battle v. Pennsylvania, 1980

C. The student's failure to achieve any or all of the instructional goals and objectives stated in the student's IEP will not be the sole factor to determine the need for extended school year services.

FEDERAL AND STATE REQUIREMENTS/OPINIONS

34 CFR 300.349

D. The IEP team, in determining whether the provision of extended school year services is essential for a handicapped student to receive an appropriate education, which includes the furthering of self-sufficiency, personal independence, and autonomy, will consider, at a minimum, the following factors:

1. Indefinite or permanent nature of the student's disability,
2. Severity of the student's disability,
3. Extent to which an interruption of the student's instructional program during the summer recess is likely to produce a significant loss of previously acquired skills which cannot be recouped within the first 45 school days of the next school year,
4. Extent to which an interruption in the provision of related services during the summer recess would significantly and adversely affect the student's ongoing ability to benefit from special education,
5. Maintenance of the least restrictive environment in which the student can successfully participate,
6. Continuity of the student's program (i.e., frequent interruptions due to illness or lack of service due to staff vacancies),
7. Unavailability of appropriately trained staff.

FEDERAL AND STATE REQUIREMENTS/OPINIONS

34 CFR 300.349
Lee v. Thompson, 1983

E. The provision of extended school year services is an acceptable compensatory option for providing services to handicapped students where access to appropriate services has been limited.

FEDERAL AND STATE REQUIREMENTS/OPINIONS

34 CFR 300.304

F. The determination for and provision of extended school year services is a special education action which is subject to all due process rights and procedures.

FEDERAL AND STATE REQUIREMENTS/OPINIONS

34 CFR 300.500, .504, .505
K.S.A. 72-972

G. Determination of the need for an extended school year will be made only for the subsequent summer following the school year and does not imply that the provision of an extended school year will be required for following summers.

FEDERAL AND STATE REQUIREMENTS/OPINIONS

34 CFR 300.346(b)
K.A.R. 91-12-41(b), (f)(2)

III. PROCEDURES FOR IMPLEMENTATION OF THE PROVISION OF AN EXTENDED SCHOOL YEAR

A. The IEP team should consider the following questions to determine the need for an extended school year program:

1. Is a significant regression anticipated if extended school year services are not provided?

   The LEA is not required to provide extended services only because the student will benefit from such a program. Instead, the IEP team should determine if the regression experienced by this individual student will significantly affect her/his maintenance of skills/behaviors.

2. How much anticipated time will be required to recover the skills lost because of regression?

   Before the LEA is required to provide extended school year services, the IEP team must determine that more than 45 school days will be required to return the student to the former level of achievement because summer instruction was not provided.

3. What is the nature and severity of the handicapping condition(s)?

   a. Each student's needs must be considered individually.
   b. Students with more severe handicaps and who are removed from regular education more than 60 percent of the time are more likely to be affected by the loss of extended school year services. This point, however, is only one factor for consideration.
   c. Where a student's disability(ies) requires a highly structured program, cessation of services usually results in regression.

4. Are there instructional areas or related services needed which are crucial in achieving self-sufficiency and independence?

   Particular consideration for extended school year services should be given to students who need instruction in such self-help skills as dressing or eating, or who need continued structure to develop behavior control.

B. The IEP team should use the following information and data in determining the need for extended school year services:

1. Teacher assessment of the student's success with various instructional interventions,
2. Criterion-referenced and standardized test data,
3. Health and health-related factors, including physical and social/emotional functioning,
4. Past educational history, as appropriate, including any extended school year services,
5. Direct observation of the student's classroom performance,
6. IEP goals and objectives,
7. Student performance (pretest and post-test data),
8. Behavior checklists, and
9. Parent interviews and student interviews where appropriate.

C. The determined educational needs of the individual student will guide the IEP team in deciding:

1. Scope of the special education instructional services including the duration and content of the program,
2. Which current goals and objectives will be addressed to maintain present skills/behaviors, *
3. Implementer(s) of the services,
4. What related services will be made available, and
5. If contracting with other LEAs or private agencies is needed.

IV. MONITORING CRITERIA AND DOCUMENTATION

A. The LEA shall ensure the provision of extended school year services.

Documentation

A.1. A statement regarding the provision of extended school year services shall be in the local comprehensive plan.

B. The IEP team shall determine if any handicapped student requires extended school year services.

Documentation

B.1. Local procedures designate the IEP team as the appropriate group to make the determination for extended school year services.

B.2. A review of a sample of student records reflects that the need for extended school year services was addressed by the IEP team.

C. The IEP team makes the determination of whether extended school year services will be provided on the basis of the factors described in Policy D.

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* It is not necessary for the goals and objectives of the IEP to be changed for the extended school year services.

Documentation

C.1. A review of a sample of student records and IEPs indicates that the decision for or against the provision of extended school year services was based on consideration of the factors in Policy D.

D. All due process procedures have been followed in the determination for and provision of extended school services.

Documentation

D.1. Parents are notified on an annual basis through informational materials that, if needed, extended school year services are a part of the LEA services to handicapped students.

D.2. Records of students receiving extended school year services contain written notification and parental consent for the services.

D.3. Records of students reflect that appropriate due process procedures were followed when services were requested but denied by the IEP team.

E. Extended school year services will be provided in the summer following the school year.

Documentation

E.1. A review of a sample of IEPs of students receiving extended school year services indicates the duration of the program which reflects the current summer session.

APPENDIX B

FREE APPROPRIATE PUBLIC EDUCATION

Introduction

Exceptional children in Kansas are afforded the right to a free appropriate public education through the provisions of the Kansas Special Education for Exceptional Children Act (K.S.A. 72-961 through 72-981). In the Act each local education agency is required to *provide special education services which meet standards and criteria set by the State Board of Education.* Goals and objectives developed by the State Board indicate the State's philosophy that all Kansas children and youth, including those classified as exceptional, not only have a right to a free public education, but also to an education which is appropriate to their needs.

At the Federal level, the Education of all Handicapped Children Act (as amended by P.L. 99-457) requires that: *Each State shall assure that a free appropriate public education is available to all handicapped children,* as set forth in the acts. Further, provisions for a free appropriate education for all handicapped persons are required by the Vocational Education Act (P.L. 98-524) and the Rehabilitation Act of 1973 (Section 504). The Rehabilitation Act requires *the provision of regular and special education and related aids and services designed to meet individual educational needs of handicapped persons as adequately as the needs of nonhandicapped persons are met. The free appropriate education shall be provided to each handicapped person regardless of the nature or severity of the person's handicap.*

I. DEFINITIONS

A. *Exceptional children/youth* means those who differ in physical, mental, social, emotional, or educational characteristics to the extent that special education services are necessary to enable them to progress toward the maximum of their abilities or capacities. Included in this definition are those children/youth who are mentally retarded, specific learning disabled, gifted, hearing impaired, language impaired, speech impaired, behaviorally disordered, physically impaired, other health impaired, severely multiply handicapped/deaf-blind, or visually impaired.

B. *Handicapped children/youth* means all exceptional children/youth except those identified as gifted.*

C. *Free education* means special education provided at public expense with no cost to parents other than fees or charges which are charged to all students, such as textbook rental, school lunch, laboratory fees, or student trips.

D. *Appropriate education* means special education and related services which:

1. meets the standards and requirements of the Education of All Handicapped Children Act (P.L. 94-142), the Vocational Education Act (P.L. 98-524), the Rehabilitation Act of 1973 (Section 504), the Kansas Special Education for

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* All Federal citations refer to handicapped persons. Kansas citations refer to exceptional persons which includes persons who are gifted.

Exceptional Children Act (K.S.A. 72-966) and of the Kansas State Board of Education, and

2. is provided in accordance with a student's individualized education program.

E. *Special education services* means programs for which trained personnel, specially designed instruction, programming techniques, facilities, and equipment may be needed for the education of exceptional children. Such services include physical education (regular or adapted) and vocational education.

F. *Related services* means transportation, and such developmental, corrective, and other aids and support services which are required to assist an exceptional student to benefit from special education and which is provided in accordance with standards set by the State Board of Education.

G. *State institution* means Topeka State Hospital, Osawatomie State Hospital, Rainbow Mental Health Facility, Larned State Hospital, Parsons State Hospital and Training Center, Norton State Hospital, Winfield State Hospital and Training Center, Kansas Neurological Institute, and any youth center as defined by K.S.A. 1984 Supp. 38-1602. These institutions are responsible to the Department of Social and Rehabilitation Services.

H. *State school* means Kansas State School for the Deaf and Kansas State School for the Visually Impaired. These State schools are responsible to the Kansas State Board of Education.

I. *School district of residence* means the district in which the child lives if (1) the child lives with a resident of the district and the resident is the parent, or a person acting as parent, of the child; or (2) the child lives in the district as a result of placement therein by a district court or by the Secretary of Social and Rehabilitation Services. The term "parent" includes stepparents and foster parents; and the term "person acting as parent" means a legal guardian or a person, other than a parent, who has physical custody of a child and has legal custody of the child, or is by law liable to maintain, care for, or support the child, or is contributing the major portion of the cost of support of the child.

J. *Nonmedical* care means services not provided by a licensed physician (34 CFR 300.13(b)(4)).

K. *School year* means the twelve-month period ending June 30.

L. *Local education agency* means any governmental agency authorized or required by state law to provide education to exceptional children.

M. *Preschool age* for exceptional children means birth to school age.

II. POLICY STATEMENTS

A. All exceptional* children/youth of school age in the state of Kansas shall have available a free appropriate public education. Special education and related services shall be provided by school districts, cooperatives, interlocal entities, State operated schools, State institutions and State correctional facilities and shall meet standards and criteria set by the State Board of Education.

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* All Federal citations refer to handicapped persons. Kansas citations refer to exceptional persons which includes persons who are gifted.

FEDERAL AND STATE REQUIREMENTS

20 USC 1401 Sec. 3(c)
20 USC 1401 Sec. 4 (18)
34 CFR 104.33(a)
34 CFR 300.1
34 CFR 300.2
34 CFR 300.121
34 CFR 300.300
K.S.A. 72-933
K.S.A. 72-966
K.S.A. 72-970
K.A.R. 91-12-22(gg)
K.A.R. 91-12-70(b)

B. Each local education agency shall have available a variety of age-appropriate educational programs and services for exceptional students as are available to nonhandicapped students (i.e., art, music, industrial arts, consumer and homemaking education, and vocational education).

FEDERAL AND STATE REQUIREMENTS

20 USC 1412(2)(A)
34 CFR 300.305
K.A.R. 91-12-35

C. The provision of special education and related services shall be the responsibility of each student's school district of residence, unless the student meets the criteria for admission to a State institution and is, in fact, admitted by a State institution. When the Secretary of Social and Rehabilitation Services or a district court places a student in a residential setting other than a State institution, the education of the student shall be the responsibility of the school district of residence.

FEDERAL AND STATE REQUIREMENTS

34 CFR 300.121
34 CFR 300.301
K.S.A. 72-933
K.S.A. 72-966
K.S.A. 72-967
K.S.A. 72-976
K.S.A. 72-1046

D. Admission standards for the State schools are determined by the State Board of Education and procedures for placement meet the requirements of special education regulation K.A.R. 91-12-30(b). Education program costs, including any costs associated with the LRE placement of State school students from Kansas in "nearby local school districts," are the responsibility of the State school and shall not be charged to the host school or the student or his/her parents.

FEDERAL AND STATE REQUIREMENTS

20 USC 1401 Sec. 4(a)(18)
34 CFR 300.2
34 CFR 300.4
K.S.A. 76-1001b
K.S.A. 76-1006
K.S.A. 76-1101b
K.S.A. 76-1102
K.A.R. 91-12-30(b)

E. If it is necessary for a school district to place a handicapped student in a residential program (either public or private) to provide a free appropriate public education, the program, including nonmedical care and board and room, shall be provided at no cost to the parents.

FEDERAL AND STATE REQUIREMENTS

34 CFR 104.33(c)
K.A.R. 91-12-37(c)

F. Appropriate educational opportunities which will contribute to the development of each exceptional child/youth in the State shall be provided in accordance with his or her abilities and capacities regardless of the nature or severity of the student's handicap.

FEDERAL AND STATE REQUIREMENTS

20 USC 1401 Sec. 3(c)
20 USC 1414 Sec. 614(a)(1)(C)
34 CFR 104.33(a) and (b)
34 CFR 300.123
K.S.A. 72-961

G. All related services and aids required to assist the student to benefit from special education shall be provided. Medical services are required for diagnostic or evaluation purposes only.

FEDERAL AND STATE REQUIREMENTS

20 USC 1401 Sec. 4(17)
34 CFR 104.33(b)
34 CFR 300.13
K.A.R. 91-12-22(dd)
K.A.R. 91-12-23(a)(7)

H. Special education services shall be made available from the age at which the local board provides educational services for nonexceptional children, to and including the school year in which the exceptional student reaches age 21 or completes the local curriculum, in accordance with the State Board of Education standards, whichever event occurs first.

FEDERAL AND STATE REQUIREMENTS

20 USC 1401 Sec. 612(2)(B)
34 CFR 300.122
K.S.A. 72-962(f)
K.A.R. 91-12-22(gg)

I. Each local education agency (LEA) may provide preschool age special education and related services for all exceptional children from birth through age four (to age five).

FEDERAL AND STATE REQUIREMENTS

K.S.A. 72-962(f)
K.A.R. 91-12-22(bb)

J. If an LEA provides special education to 50 percent of the three or four year old children in a category of exceptionality, all children in that category and that age group shall be provided a free appropriate public education.*

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* Fifty percent of an age group may be calculated by use of census data or by use of prevalence figures for the handicapped population.

FEDERAL AND STATE REQUIREMENTS

34 CFR 300.300(b)(3)

K. If an LEA provides education to three or four year old nonhandicapped children, a proportionate number of handicapped children in the same age groups shall have a free appropriate public education made available to them.

FEDERAL AND STATE REQUIREMENTS

34 CFR 300.300(b)(2)

III. PROCEDURES FOR IMPLEMENTATION

A. State Education Agency

1. The State education agency (SEA) is responsible for establishing standards and criteria for program approval.
2. The Special Education for Exceptional Children Act's regulations describe the procedures which must be followed by all agencies providing special education.
3. The State Plan for special education provides guidelines for implementation of State special education laws. This document includes the following:
    a) Provisions for the establishment, maintenance, and supervision of special education services in school districts and State institutions.
    b) Prescribed courses of study and curricula necessary to meet requirements for approval of special education services.
    c) Criteria for screening, diagnosis, and certification of exceptional children including physical, educational, and psychological examinations.
    d) Definitions of the various categories of exceptionality.
    e) Standards for special education services to be received by each of the several categories of exceptional children.
4. The SEA is responsible for establishing standards for the implementation and supervision of special education services in school districts, private facilities, and State institutions.
5. The Special Education Administration Section of the SEA provides leadership at the State and local levels in implementing free appropriate educational services to all exceptional children.

B. Local Education Agencies

Each local education agency (LEA) is responsible for providing special education to all school age exceptional children and youth and has the authority to:

1. Establish and organize approvable special education services for exceptional children within its schools.
2. Provide for approvable special education services in the home, hospital, or other facility.

3. Enter into cooperative agreements with one or more other school districts for special education services, if the agreements are approved according to State statutes and regulations.
4. Contract with any school district for special education services. Before entering into a contract, the contract may be approved by the Commissioner of Education. A contract may provide for the payment of tuition by the contracting school district.
5. Contract with any accredited private nonprofit corporation or any public or private institution within or without the state which has approvable special education services for exceptional children. Prior to the time any school district enters into a contract with any private nonprofit corporation or any public or private institution for the education of an exceptional child, the curriculum as provided by the corporation or institution and the contract must be approved by the Commissioner of Education.*

   Any contracts with a Kansas State institution must also be approved by the Secretary of the State Department of Social and Rehabilitation Services.
6. Use State, local, Federal, and private sources of support to meet the free appropriate public education requirements. An insurer or similar third party is not relieved from an obligation to provide or pay for services provided to a handicapped child by the Education for All Handicapped Children Act.

C. State Institutions

Each State institution is responsible for providing special education to all identified school age exceptional children and youth housed and maintained in the institution and has the authority to:

1. Provide special education services which meet standards and criteria set by the State Board of Education and subject to approval by the State Board of Education.
2. Contract with local school districts for special education services. Prior to the time a State institution enters into a contract with any school district, the special education services provided by the school district must be approved by the State Board of Education.

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* The approval of the Commissioner of Education is not necessary when contracting for related services (i.e., occupational and physical therapy) from a hospital. The individual provider's name and FTE is included on the LEA Personnel Report.

APPENDIX C

LEAST RESTRICTIVE ENVIRONMENT

Introduction

Least restrictive environment is the term used to describe a concept which grew out of a national movement to include persons with handicaps in the mainstream of community life. Prior to 1970, many handicapped children and youth were excluded from the public education system or were placed in segregated educational environments. To address this problem, the Education of All Handicapped Children Act (P.L. 94-142) requires that in order to qualify for Federal assistance under the Act, a state must establish: *Procedures to assure that to the maximum extent appropriate, handicapped children, including children in public and private institutions or other care facilities, are educated with children who are not handicapped, and that special classes, separate schooling, or other removal of handicapped children from the regular educational environment occurs only when the nature or severity of the handicap is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily...* USC § 1412(5)(B). Unlike other concepts set forth in the Act the least restrictive environment principle is not entirely applicable to gifted education. Although multiple placement options must be available for both handicapped and gifted students, the notion that decisions about placement should begin with a presumption in favor of integration, is not appropriate for gifted students. This section, with the exception of statements about placement options and comparable facilities, is focused on the policies and procedures necessary to the right of students with handicaps to be included to the maximum extent appropriate in the regular education environment. Requirements which apply to gifted students use the terms exceptional or gifted; requirements using the term handicapped do not apply to gifted students.

I. DEFINITIONS

A. *Educational placement* means the special education and related services specified in a student's current individualized educational program (IEP) and the instructional environment in which these services are provided.

B. *Instructional environment* means the type of delivery model used to provide special education and related services to a student, e.g., regular education class, special education class, special school, home, or hospital.

C. *Regular educational environment* means the regular classroom and any other instructional setting in which both regular and special education services may be provided to both handicapped and nonhandicapped students.

D. *Regular class or regular classroom* means a specific instructional grouping within the regular educational environment.

E. *Removal from regular education environment* means placement in special education and/or related services for more than 60 percent of the student's educational program.

F. *Supplementary aids and services* means special instruction, instructional support services, materials or equipment provided in conjunction with regular classroom instruction including consultant teacher, itinerant instruction, resource room instruction, tutoring, instructional support provided by teacher aides and paraprofessional personnel, technology, readers, and interpreters.

G. *Satisfactory educational achievement* means:

1. For a handicapped student currently receiving special education and related services, satisfactory progress as determined by the IEP committee toward the attainment of the annual goals and short-term objectives contained in the student's current IEP,
2. For a handicapped student enrolled in the school of a local education agency (LEA) but not currently receiving special education and related services,
    a. Performance at or not significantly below grade level or the expected performance level for the student's chronological age and ability level or
    b. Documented positive response to one or more regular education interventions.
3. For a handicapped student not currently enrolled in any LEA,
    a. Performance at or not significantly below the ability level for the student's chronological age while enrolled in a preschool program, or
    b. Satisfactory educational progress in a trial educational placement.

H. *Maximum extent appropriate* means the integration of handicapped and nonhandicapped students in instructional and noninstructional environments consistent with the ability of the handicapped students to satisfactory education performance.

I. *Nonacademic and extracurricular services and activities* include but are not limited to the following services and activities when provided by a LEA:

1. Counseling services,
2. Athletics,
3. Transportation,
4. Health services,
5. Recreational activities,
6. Referrals to agencies which provide assistance to handicapped persons,
7. Assistance in making outside employment available,
8. Meals,
9. Recess periods, and
10. Special interest groups or clubs.

If a student is placed in a segregated facility, the student shall be provided the opportunity to participate in nonacademic and extra curricular activities with nonhandicapped students.

Note: Counseling services, transportation, and health services may also be considered related services depending upon the individual needs of the student as identified by the IEP committee.

J. *Equally effective nonacademic or extracurricular services or activity* means a nonacademic or extracurricular service or activity which affords a handicapped student an equal opportunity to obtain the same result, to gain the same benefit, or to reach the same level of achievement as a nonhandicapped peer, and to ensure participation appropriate to the student's needs. Segregated activities shall not be maintained solely for the reason that they are "equally effective." While a student is in a segregated facility, the student shall be given the opportunity to participate in activities with nonhandicapped students.

K. *Special secure setting* is an instructional setting which is determined by noneducational personnel. Examples include a correctional facility or restriction to a ward for a student confined to a treatment facility. If a student is placed in a special secure setting, the student shall be provided the opportunity to participate in activities with nonhandicapped students.

II. POLICY STATEMENTS/REQUIREMENTS

A. Handicapped students have the right to be educated, to the maximum extent appropriate, with students who are not handicapped. They shall be removed from the regular educational environment only when the nature and extent of their handicapping condition is such that education in regular classes, with supplementary aids and services, cannot be achieved satisfactorily. This provision applies to all handicapped children and youth, including those in public or private institutions or other care facilities.

34 CFR 300.550 K.A.R. 91-12-35

B. No student enrolled in regular education shall be identified as handicapped or gifted until a multidisciplinary team, including both regular and special education personnel with knowledge of the student's school performance, has documented that:

1. The student has been presented with learning experiences which are appropriate for the student's age and ability levels, and
2. The student's potential for learning has not been achieved in that regular educational environment.

K.A.R. 91-12-40(c)

C. Each LEA shall provide:

1. Support services to enable each handicapped student to remain in a regular class placement to the maximum extent appropriate, and
2. A continuum of placement options so that there is the least necessary deviation from the educational and curricular experiences provided for a handicapped student and his or her nonhandicapped peers. Gifted students also shall have the availability of a continuum of placement options so that their unique learning needs may be met. The continuum shall include opportunities for handicapped and gifted students to receive:
    a. Regular classroom instruction for the entire school day with special materials, equipment, and/or the indirect services of a consulting teacher;

b. Regular classroom instruction for the entire school day with modification to the regular instructional program;
c. Regular classroom instruction for 95-100 percent of the student's educational program, with special education and/or related services for the remainder of his/her program;
d. Regular classroom instruction for 80-94 percent of the student's educational program, with special education and/or related services for the remainder of his/her program;
e. Regular classroom instruction for 40-79 percent of the student's educational program, with special education and/or related services for the remainder of his/her program;
f. Instruction in a special classroom for more than 60 percent of the student's educational program with instruction in the regular classroom for the remainder of his/her program. This and subsequent placements shall be considered as removal from the regular educational environment;
g. Full-time instruction in a special education classroom, with opportunities for participation with nonhandicapped students in nonacademic and extracurricular activities;
h. Instruction in a separate special school for most of the school day, with instruction in the regular classroom for part of the school day or opportunities for participation in nonacademic and extracurricular activities in a regular school setting;
i. Full-time instruction in a separate special school;
j. Instruction provided in hospital setting or residential facility on an individual or group basis;
k. Instruction provided on an individual basis in a home (it should be noted that home-based instruction is not necessarily considered as most restrictive for preschool age); and
l. Instruction provided in a special secure setting.

These placement options shall be made available to the extent necessary to implement the IEP for each handicapped student in the LEAs jurisdiction. Enrollment in the State Schools for the Visually Handicapped and the Deaf may be used to provide these placement options.

Note: Generally least restrictive environment has been implemented by providing a continuum of placement options ranging from the least restrictive to the most restrictive. One danger in this approach is that available services rather than the needs of the student may influence placement decisions. To minimize this possibility, placement options are described in terms of student participation rather than the role of the teacher or related service provider. The departure from traditional descriptions of consulting teacher, itinerant, resource, and self-contained programs is also more compatible with current practice. Programs described as "resource rooms" frequently serve as self-contained programs for students who require this level of service.

34 CFR 300.551 K.A.R. 91-12-35(b)
34 CFR 300.522(b)

D. The IEP committee shall be composed of those persons required by K.A.R. 91-12-41(b) (See IEP section for PROCEDURAL RESPONSIBILITIES chapter) to determine educational placement. The written notice which is given to parents prior to any special education placement action shall contain a description of the educational placement options which were considered by the IEP committee and the reasons for rejection of those options.

34 CFR 300.504(a) K.A.R. 91-12-46
34 CFR 300.505(a)(2)

E. Educational placement decisions shall be based on each student's particular needs and the needs identified on the student's IEP. The LEA shall not routinely place all students with the same handicapping condition in the same program, nor shall placement in a restrictive setting be the only educational option considered for all students in a given category.

The placement of a handicapped student in a restrictive setting, however, is not prohibited if the placement decision is based on the student's unique needs. Decisions regarding least restrictive environment shall not be limited to those special education and related services currently available within the LEA, but shall reflect the educational needs of the student.

34 CFR 300.533 K.A.R. 91-12-35(a)
K.A.R. 91-12-40(d)(7)

F. Each LEA shall provide age-appropriate opportunities for the participation of handicapped students with nonhandicapped students in nonacademic and extracurricular services and activities to the maximum extent appropriate to the needs and interests of the handicapped students.

34 CFR 300.306(a) K.A.R. 91-12-35(c)
34 CFR 300.553

G. All facilities for exceptional students shall be comparable to those for nonexceptional students within the same school building. If an LEA operates a facility solely for exceptional children, the facility and the services and activities provided in the facility shall be comparable to those provided by the LEA for nonexceptional children.

K.A.R. 91-12-38

H. Each LEA shall establish appropriate administrative policies and procedures to assure that availability of an appropriate education for each handicapped student and a systematic review process to assure that his or her educational placement is in accordance with the least restrictive environment principle. These policies and procedures shall describe each step of the process and the title of the person or persons responsible for completing the step. Documentation that a systematic review has occurred shall be maintained by the LEA and all policies and procedures shall be included in the LEAs local comprehensive plan for special education which shall be reviewed by the Special Education Administration Section, Kansas State Department of Education.

34 CFR 300.555 K.A.R. 91-12-35(e)

I. Each LEA shall maintain records of the number of exceptional children, by age cohort and by category, who are participating in regular education programs and those who are in separate classes, separate school facilities, or who are otherwise removed from the regular educational environment. These data shall be submitted at least annually to the Special Education Administration Section, Kansas State Department of Education (KSDE) in a format specified by the department. KSDE shall tabulate these data and submit a State report to the Office of Special Education Programs, U.S. Department of Education.

34 CFR 300.132

J. KSDE shall disseminate policies and procedures for implementation of the least restrictive environment principle. Technical assistance is available through KSDE and may be requested by LEAs. KSDE shall provide such assistance to any LEA found to be in violation of least restrictive environment requirements through monitoring activities or complaint investigation.

34 CFR 300.555

III. PROCEDURES FOR DETERMINING PROPOSED EDUCATIONAL PLACEMENT

A. In determining the proposed initial placement of a student, the IEP committee should:

1. Review information from a variety of sources, including aptitude and achievement tests, teacher recommendations, the student's physical condition, social or cultural background and adaptive behavior, and shall assure that information from all of these sources is documented and carefully considered;
2. Consider the current level of performance, goals, and objectives; and
3. Consider the educational and social/emotional consequences of suggested placements on the student's opportunity for satisfactory educational achievement.

B. The IEP committee should recommend educational placement of the student in the regular educational environment unless the committee determines that the special education program needed by the child cannot be provided in that setting. This determination should be based on consideration of the curricula, instructional methods, or classroom organization recommended in support of the goals and objectives contained in the IEP. Considerations include the following:

1. Curriculum. Why can't the curriculum and/or instructional method be implemented in an environment where nonhandicapped students are present?
2. Staffing patterns. Could staffing patterns be changed to permit the handicapped student to be educated in an environment where nonhandicapped students are present?
3. Regular education classroom organization. Could the regular education classroom be organized in such a manner that the handicapped student could be educated in an environment where nonhandicapped students are present?

C. If the IEP committee determines that the student's educational placement should be one of the options which constitutes removal from the regular educational environment, the committee should:

   1. Review the alternative placement options listed in Section I-C of this section and recommend the least restrictive setting in which the special education program can be delivered;
   2. Recommend placement, if possible, in the school which the student would attend if not handicapped, and in any event, in a facility which is as close as possible to the student's home; and
   3. Recommend placement in a chronologically age-appropriate classroom and school.

D. If the student is under the jurisdiction of a noneducational authority (e.g., law enforcement or treatment) which places the student in a special secure setting, the IEP committee shall determine the educational goals, objectives, special education, and related services for the student.

E. The extension of an IEP beyond a 180 day or 1,080 hour instructional program should not result in a more restrictive placement unless recommended by the IEP committee. However, the increased isolation of an instructional program during a period of time when nonhandicapped students are not attending school does not violate any least restrictive environment requirement.

F. Each handicapped student's educational placement shall be reviewed/determined at least annually and shall be based on his or her individualized education programs (K.A.R. 91-12-42(b)(3)).

   1. If the student is currently placed in the regular educational environment, the IEP committee should recommend the continuation of that placement if the following conditions are met:
      a. The current goals and objectives in the student's IEP are appropriate and are being met, or
      b. The current goals and objectives in the student's IEP are appropriate, but are not being met because of conditions which can be altered within the regular educational setting, such as modification of the curricula, instructional methods, supplementary aids or services, and related services.
   2. The IEP committee should recommend a less restrictive educational placement if the student has made satisfactory educational achievement and the proposed IEP could be implemented in a less restrictive setting.
   3. The IEP committee should not recommend placement of a student in an instructional setting more restrictive than the current placement unless the IEP committee determines and documents in writing that the student has not made satisfactory educational achievement in the current placement and that failure to achieve satisfactorily could not be attributed to conditions which could be altered in the current placement, such as modification of the curricula, instructional methods, supplementary aids or services, and related services.

G. In order to meet the requirements of 34 CFR 300.306(a) and 300.553; K.A.R. 91-12-35, each LEA shall use the same procedures to notify handicapped students and their parents as are used to notify nonhandicapped students and their parents of the nonacademic and extracurricular services and activities which it offers. The notification shall be given in the primary language or mode of communication of the handicapped student and/or his or her parents.

H. In order to make a nonacademic or extracurricular service equally effective for a handicapped student, an LEA may provide it in a different manner than it is provided for nonhandicapped students. When the nature or severity of the student's handicap makes it impossible for the student to benefit from participation, even with reasonable modifications, the LEA may sponsor separate services and activities.

I. Least restrictive environment requirements apply to preschool as well as school age handicapped students. If the LEA does not operate programs for nonhandicapped preschool students, the least restrictive environment requirements may be met by alternative means such as:

1. Establishing an integrated early childhood program which serves both handicapped and nonhandicapped students in a single classroom setting with handicapped students constituting a higher proportion of the classroom population than that found in a regular preschool setting; or
2. Contracting for services with preschool programs, including Head Start, serving nonhandicapped students; or
3. Locating the LEA preschool program in a regular elementary school building.

The use of facilities which are separate or otherwise solely devoted to the handicapped is permissible only when necessary to meet an individual preschool student's specific needs.

Local education agencies are not required to establish preschool programs for nonhandicapped students for the sole purpose of being able to implement the least restrictive environment principle. Similarly, LEAs are not required to establish extensive contract programs with private preschools solely to implement the least restrictive environment principle.

IV. MONITORING CRITERIA

1. Documentation of preassessment procedures is found in the records of all students referred to and placed in special education services from the regular educational environment. **Note:** A citation may not be given when initial placement occurred prior to the effective date of the preassessment requirement, May 1984.
2. The records of each handicapped student receiving special education services shall contain:
   a. The written notice which is given to parents prior to any special education placement action which contains a description of the educational placement options which were considered by the IEP committee and the reasons for rejection of those options;

   b. Evidence that at the IEP annual review the IEP committee determined whether the services in the IEP or the student's needs could be provided in a less restrictive environment regardless of the student's educational achievement.

3. District files shall contain documentation of notification regarding the opportunity for participation of handicapped students with nonhandicapped students in nonacademic and extracurricular activities.

4. The on-site visitation shall include viewing a sample facility for exceptional and nonexceptional students to assure comparability of the facilities, services, and activities.

5. In the records of each handicapped student receiving special education services outside of the regular educational environment for more than 60 percent of the student's educational program are:

   a. A written narrative giving the reasons for concluding that the student's failure to achieve satisfactorily in the regular educational environment is due to the nature and extent of the student's handicap and not to:
      i. Poor school attendance;
      ii. Serious and/or recurring health problems;
      iii. Inappropriate or incompatible instructional approaches or styles; or
      iv. Inappropriate IEP goals, objectives, procedures, or evaluation criteria; and

   b. A written narrative giving the reason(s) that the special education services described in the IEP could not feasibly be provided in the regular educational environment.

6. In the records of each handicapped student receiving special education services in a separate school setting or at home is a statement of the reason(s) that the placement is essential to the attainment of the goals and objectives in the student's IEP.

7. In the records of each handicapped student receiving special education services in a residential setting is a statement of the reason(s) that the student cannot be transported to and from home on a daily basis nor live in a setting other than the natural home that would allow attendance in the regular educational environment.

8. In a sample of student records the justifications/rationales for placement outside of the regular education environment are not identical for all students in the same category of exceptionality and appear to have been determined individually.

9. The majority of parents surveyed indicate that their children were presented with opportunities to participate to the maximum extent appropriate in nonacademic and extracurricular services and activities. Note: Statements of individual parents who claim that their children were not given opportunities to participate in nonacademic and extracurricular services must be investigated by the monitor and substantiated before a citation is given.

APPENDIX D

SUSPENSION/EXPULSION OF HANDICAPPED STUDENTS

Introduction

Handicapped children in Kansas are afforded the right to a free appropriate public education through the provisions of the Kansas Special Education for Exceptional Children Act (K.S.A. 72-961 through 72-981). At the Federal level, the Education of the Handicapped Act (EHA), 20 USC 1400 *et seq.* requires each State to assure that a free appropriate public education is available to all handicapped children, as set forth in the Act. Further provision for appropriate educational services for handicapped persons is required by the Carl D. Perkins Vocational Education Act (20 USC 2301 *et seq.*) and Section 504 of the Rehabilitation Act of 1973 (29 USC 794).

The use of suspensions and/or expulsions which result in the denial of a free appropriate public education for handicapped students has been the subject of several court cases, including the 1988 United States Supreme Court decision in *Honig v. Doe.* In this case the Supreme Court framed an overall process that must be followed in the suspension or expulsion of handicapped students. The following policies are based on the limitations set by the Supreme Court. In addition, the policies follow the opinion of the Office of Civil Rights that a suspension of more than ten consecutive or cumulative days in a school year constitutes "a significant change in placement" which invokes the procedural safeguards of the EHA, including appropriate reevaluation and due process procedures.

These suspension/expulsion policies do not apply to gifted students unless there is an accompanying handicapping condition.

I. DEFINITIONS

A. *Dangerous behavior* means behavior which is an immediate endangerment to self, other persons, or property.

B. *Expulsion from school* means removal from the educational environment for a term which does not exceed the current school year.

C. *In-school suspension* means a short-term (not exceeding five days) suspension during which the student stays at school but not in the classroom to which he/she is assigned. At the discretion of the local district, the student may or may not be permitted to complete school work. The student is not under the direction of a certified teacher.

D. *Supervised alternative setting* when used as a disciplinary measure means maintaining the student, on a temporary basis, in an educational environment other than the assigned classroom under the direction of a certificated teacher. The use of this form of management must be included in the student's original Individualized Education Program (IEP), or may be included in an IEP revision if such use is deemed necessary. This setting allows the student to complete and receive credit for his/her work.

E. *Suspension from school* means: (1) on a short-term basis, removal from the educational environment for a term not exceeding five consecutive school days; and (2) on a long-term basis, removal from the educational environment for more than five consecutive school days, not extending beyond the current school semester.

II. POLICY STATEMENTS

A. Suspension and/or expulsion of handicapped students, for more than ten days consecutively or cumulatively in one school year, cannot be used to deny these students special education and related services if there is:

1. A causal relationship between the disability and the behavior; and/or
2. The IEP team determines that the current placement is inappropriate.

FEDERAL AND STATE REQUIREMENTS/OPINIONS

20 USC 1401
K.S.A. 72-966
Honig v. Doe

B. The suspension of a handicapped student for more than ten days of school, consecutively or cumulatively in one school year, constitutes a change in placement and requires that appropriate evaluation and placement procedures be followed.

FEDERAL AND STATE REQUIREMENTS/OPINIONS

Office of Special Education Programs, 1987, Fields
Honig v. Doe

C. A supervised alternative setting may be used as an alternative method of managing behavior, and does not count, in the ten day change of placement rule.

FEDERAL AND STATE REQUIREMENTS/OPTIONS

Honig v. Doe

D. In-school suspension, as previously defined, does count in the ten day rule.

FEDERAL AND STATE REQUIREMENTS/OPINIONS

K.S.A. 72-966

E. If a student is transported to special education services, suspension or expulsion from the usual method of transportation cannot deprive the student of a free appropriate education. The LEA shall make alternative provisions for transportation.

FEDERAL AND STATE REQUIREMENTS/OPINIONS

20 USC 1401
34 CFR 300.13
K.A.R. 91-12-22(dd)

F. If the student has not been identified as needing special education services, but the student has been referred for a comprehensive evaluation, the evaluation process must continue even though the student is suspended or expelled.

FEDERAL AND STATE REQUIREMENTS/OPINIONS

K.S.A. 72-8903
K.A.R. 91-12-47

G. A short-term suspension may be imposed upon a handicapped student without affording the student or his or her lawful custodian an immediate hearing if, 1) the student's behavior is substantially likely to result in injury to the student or to other persons, and 2) appropriate due process procedures are followed after the suspension is imposed.

FEDERAL AND STATE REQUIREMENTS/OPINIONS

20 USC 1415
K.S.A. 72-8902
Honig v. Doe

III. PROCEDURES FOR IMPLEMENTATION

A. Short-term suspension: Local education agencies (LEAs) have the authority to discipline a handicapped student by suspending the student, in-school or out-of-school, for a short-term (not exceeding five days) using the following procedures:

1. Oral or written notice of an informal hearing will be given to the student, the student's lawful custodian, and the director of special education.
2. Except as indicated in III.B, the hearing must be held before the suspension begins and may be held immediately following the oral or written notice of charges. The student must remain in his/her placement pending the outcome of the informal hearing.
3. The hearing shall afford the student the right to:
   a. be present,
   b. be informed of the charges,
   c. be informed of the basis of accusation, and
   d. defend and/or mitigate the charges.
4. If the proposed suspension would cause the total number of days the student has been excluded from school during the current school year to exceed ten days, the procedures for long-term suspension or expulsion must be followed. See III.D.

B. Dangerous behavior: LEAs have the right to suspend a handicapped student, without a hearing, if he/she is substantially likely to be a danger to self or others, provided that:

1. Within 24 hours of the suspension, a written notice of the length of suspension and reasons for the action is given the student, his/her lawful custodian, and the director of special education, and
2. Within 72 hours of the suspension, an opportunity for an informal hearing as described in III.A above, is provided.

C. Options to pursue with dangerous students: LEAs have certain options which may be pursued when a dangerous handicapped student has been suspended. The LEA may:

1. Pursue an alternate placement if the parents and the LEA can come to agreement, or
2. If the lawful custodian and the LEA are unable to come to agreement on an alternate placement, the LEA may file an action under 20 USC 1415(e)(2), the Education of the Handicapped Act, for appropriate relief. In such a suit, the LEA has the responsibility to show that maintaining the current placement is substantially likely to result in injury to the student or to others.

D. Long-term suspension/expulsion: LEAs have the authority to use long-term suspension or expulsion with handicapped students by implementing the following procedures.

1. Prior to the proposed suspension or expulsion, the IEP team, which includes the parents, meet to evaluate the precipitating events and the student's current placement to:
    a. consider the handicapping condition;
    b. determine if the misconduct was caused by or was a direct manifestation of the student's handicapping condition, for example, the student's inability to comprehend the school district's rules of conduct; and
    c. determine if the current placement is appropriate.
2. If it is determined by the IEP team (majority decision) that the incident was the result of the handicapping condition, or that a change in placement is needed, an alternative disciplinary procedure must be pursued. A change in placement to a more or less restrictive environment might also be considered.
3. If the IEP team determines there is no relationship between the student's behavior and the handicapping condition and the current placement is appropriate, the student may be suspended or expelled.
4. If long-term suspension or expulsion is determined to be the appropriate disciplinary procedure the following must occur:
    a. The student must be afforded an opportunity for a formal hearing.
    b. Written notice of the proposed action and charges is given the student, the lawful custodian, and the director of special education. The notice must include the time, date, and place for the hearing. The copy of relevant State statutes and board policies must be provided.
    c. A written report of any decision in the formal hearing to suspend or expel for over five days is given to the local board of education that is providing the special education services and the local board of education of the district in which the student lives.
    d. The report is open to the inspection of the student and the student's lawful custodian if the student has not attained 18 years of age. If the student has attained 18 years of age, the report shall be open to the lawful custodian only upon written consent of the student.
    e. If an appeal is sought, the student may return to class pending the outcome of the hearing. However, if the behavior is likely to endanger the student or others, the procedures cited in III.C may be followed.

IV. MONITORING CRITERIA AND DOCUMENTATION

A. The LEA cannot suspend for over ten days, consecutively or cumulatively, or expel any handicapped student if the behavior is related to the handicapping condition.

Documentation

A.1. The local comprehensive plan contains a statement that a handicapped student will not be suspended or expelled in excess of ten days, cumulatively or consecutively, if:

1. there is a causal relationship between his/her behavior and handicapping condition and/or
2. the student's placement is inappropriate.

A.2. A report of the IEP team meeting indicates that the determination in A.1. has been made.

A.3. Parents and personnel surveyed during the on-site compliance visit agree that no handicapped student has been suspended or expelled for more than ten days, consecutively or cumulatively, without an IEP meeting at which the determinations in A.1. have been made.

A.4. The building administrator has documentation that the IEP team has conducted the appropriate review and causal determination for each handicapped student who has been suspended or expelled.

B. No handicapped student can be suspended from school for more than ten days, consecutively or cumulatively in one school year, without adhering to appropriate placement procedures.

Documentation

B.1. Parents and personnel surveyed during the on-site compliance visit agree that proper due process procedures for change in placement have been followed for each student.

B.2. The building administrator has documentation that proper due process procedures for change in placement have been followed for each student.

C. Supervised alternative settings may be used as methods for managing behavior and will not count in the ten day change of placement rule.

Documentation

C.1. Parents and personnel surveyed during the on-site compliance visit agree that handicapped students placed in supervised alternative settings are under the direction of a certificated teacher, receive credit for school work completed, and the IEP includes the use of such a setting.

C.2. The building administrator has documentation that all handicapped students who are placed in supervised alternative settings are under the direction of a certificated teacher, receive credit for work completed, and the IEP includes the use of such a setting.

D. In-school suspension may be used for handicapped students but will be counted in the ten day change of placement rule.

D.1. Parents and personnel surveyed during the on-site compliance visit agree that handicapped students who have received in-school suspensions have not been suspended for more than ten days, consecutively or cumulatively, during the school year.

D.2. The building administrator has documentation that each handicapped student who has been placed on in-school suspension has not been suspended for more than ten days, consecutively or cumulatively, in one school year.

E. All handicapped students who are transported to special education services must be provided alternative transportation services if they are suspended or expelled from the usual method of transportation.

Documentation

E.1. Parents and personnel surveyed during the on-site compliance visit agree that each handicapped student who is transported to special education services, but who has been suspended or expelled from the usual method of transportation, was provided alternative transportation.

E.2. The LEA has documentation that transportation has not been denied to any handicapped students who have been suspended or expelled from the usual method of transportation.

F. Students who have been referred, but not yet identified, for possible special education and related services must have their evaluation process continued even though they have been suspended or expelled.

Documentation

F.1. Parents and personnel surveyed during the on-site compliance visit agree that evaluation procedures have continued even for suspended or expelled students.

F.2. The LEA has documentation that indicates that each student who has been referred for a comprehensive evaluation has received that evaluation even if he/she has been suspended or expelled.

G. Handicapped students whose behavior is substantially likely to result in injury to the student or other persons may receive an immediate short-term suspension for up to five days under Kansas law.

Documentation

G.1. Parents and personnel surveyed during the on-site compliance visit agree that all handicapped students who have received an immediate short-term suspension have been afforded an informal hearing within 72 hours.

G.2. The LEA has documentation that any handicapped student who has received an immediate short-term suspension based on the likelihood of injury to self or others has had a hearing within 72 hours.

G.3. Although Federal case law permits a ten-day suspension, Kansas law defines short-term suspensions as being only five days. Therefore, the LEA must

have documentation that a handicapped student who is likely to injure him/herself or others, will not be suspended for more than five days without affording the student a formal hearing as provided in K.S.A. 72-8902.

GLOSSARY

GLOSSARY OF SELECTED TERMINOLOGY

INTRODUCTORY STATEMENT

To further clarify and explain the terminology used in special education, a section of this Plan is concerned with definitions of pertinent terms. As cited in K.S.A. 72-961 and 72-962, any specialized terms and phrases used in this legislation are defined and will remain as stated *unless the context otherwise requires.* These definitions do not constitute a complete or total list, but are the most frequently used in reference to the Plan.

Adaptive Physical Education	Programs which have the same objectives as the regular physical education programs, but in which adjustments are made in the curriculum to meet the needs and abilities of exceptional individuals.
Annual Survey................	A survey which obtains data necessary for review of the progress or lack thereof made in special education services for exceptional children and assesses future needs for providing special education services on a more comprehensive, expert, economic, and efficient basis. It fulfills the duty of the Department to conduct an annual survey of the school districts showing the total number of exceptional children within the various categories of exceptionality in the state. The data obtained determines the amount of money to be encumbered and reimbursement for pupil transportation, teacher transportation, and programs for exceptional children. Personnel lists shall verify the approval of special staff employed.
Approved Program	State approval of any special education program requires the employment of properly certified, endorsed, or licensed personnel; compliance with pupil-teacher ratios; the development and offering of curricula appropriate to student needs; appropriate facilities; compliance with identification, individualized education program, placement, and review procedures; necessary related services; and approvable delivery models.
Art Therapy	A related service which provides therapeutic art for exceptional students; participation in the comprehensive evaluation process to assist in determining a student's handicapping condition through the art process; and the enhancement of skills in the areas of academic, perceptual motor, and verbal/nonverbal communication.

Audiology	A related service which identifies children with a hearing loss; determines the range, nature, and degree of hearing loss, including referral for medical or other professional attention for the habilitation of hearing; provides habilitative activities, such as language habilitation, auditory training, speech reading (lip reading), hearing evaluation, and speech conservation; and creates and administers programs for prevention of hearing loss.
Autism	A severe and pervasive lifelong developmental disorder which manifests itself before thirty months of age. Children and youth with autism exhibit chronic impairments in their ability to learn, communicate, and interact with others in their environment. These children are handicapped to such a degree, and so significantly incapacitated in their functioning, that special education and related services are almost always necessary. The supplement on Physically and Other Health Impaired Programs may be requested from the Special Education Administration Section of the Kansas State Department of Education.
Behavior Disorders	A condition with one or more behaviorial characteristics that are: a. exhibited at either a much higher or much lower rate than is appropriate for one's age; b. documented as occurring over an extended period of time in different environmental settings within the school, and home or community; and c. interfering consistently with the student's educational performance. This interference with educational performance shall not be a result of intellectual, sensory, cultural, or health factors that have not received appropriate attention.
Categorical Service Unit	The unit which provides an array of placement options for learners within one of the categorical areas of exceptionality. While instruction focuses on commonly identified needs of the categorical grouping, attention is given to the various degrees of need and age levels of individual learners. Standards specific to the various administrative plans are found in the Least Restrictive Environment chapter of this Plan. Certification requirements for instructional personnel are set forth in the Certification and Teacher Education Regulations. Together these requirements shall constitute the basis for State approval.

Comprehensive Evaluation	An evaluation which includes consideration of the school, home, and community. It shall be non-discriminatory and multidisciplinary and shall include physical, psychological, and educational data.
Comprehensive Plan	A report of the current status of local special education services and a three-year projection of program revision or expansion. Each year as the district/cooperative implements the first year of its projected activities, the plan is updated and a new three-year projection made. This updated plan reflects progress made in special education services and changes in local needs. By October 15 of each year, each district or special education cooperative submits to the Special Education Administration Section an update or revision of its plan for providing comprehensive special education services.
Compulsory Attendance	a. When a determination has been made under K.S.A. 72-972 to 72-975, inclusive, and any amendments to those statutes, that a person is an exceptional child, other than a gifted child, it is the duty of the lawful custodian of the child to require the child to attend the special education services provided for the child. The child must attend school until he/she reaches age eighteen or completes his/her special education curriculum, whichever comes first. b. Special education services must be made available, though not compulsory, by the local board of education. These services must be available to and including the school year in which the exceptional child reaches age twenty-one or completes his/her special education curriculum, whichever event comes first.
Consulting Teacher Plan	A certified special education teacher whose role is to facilitate the maintenance of exceptional children in the regular educational setting with their peers. This must be appropriate to their special needs as determined from the results of the comprehensive evaluation. The consulting teacher functions as an instructional specialist who may work across several areas of exceptionality.
Coordinator	See definition for Supervisor.
Counseling Services	The related services which assist in the identification of students needing referral for special education evaluation; mainstreaming special education students into the regular educational program; and individual and group counseling/consultation with parents, teachers, and students to enhance the development of the individual.

Dance Movement Therapy	A related service which provides for the therapeutic use of movement as a process which furthers the emotional and physical integration of the exceptional student. The dance movement therapist conducts a student assessment through movement observation, develops individualized movement programs, plans therapeutic goals based on students' demonstrated needs, and promotes skills development in the areas of movement repertoire, expressive movement, verbal/nonverbal communication, social/behavioral, preacademic, academic and total development through the movement process. The therapist also evaluates student progress, provides training and technical assistance as a resource to teachers and parents, and participates in staffing conferences with educators including support services personnel or treatment teams.
Deaf-Blind	Those individuals who have auditory and visual impairments, the combination of which causes such severe communication and other developmental and educational problems that they cannot properly be accommodated in special education programs solely for the hearing impaired or the visually impaired individual. Although the deaf-blind have many of the same learning characteristics and needs as the severely multiply handicapped, they may not always be functioning at a severe or profound range of retardation.
Dependency Level	The acquirement of a range of behaviors which each mentally retarded individual can use in order to perform on an independent basis in some situations, while he/she will require assistance and/or support to perform in other situations. Since mental retardation occurs on a continuum, the ability to perform independently also occurs on a continuum. The dependency levels of this continuum range from independent performance through semi-independent, semi-dependent, and dependent to totally dependent performance.
Developmental Special Preschool	The schools that are operated within the state by private nonprofit corporations or foundations serving handicapped children under school age as described in K.A.R. 91-12-27 and that are approved by the State Department of Education.
Developmentally Delayed	Children, from age birth to five years inclusive, who cannot be accurately diagnosed as having a specific handicapping condition but who have one or more

	diagnosed condition(s) which cannot be medically corrected and are associated with educationally handicapping conditions or who test 25 percent or more below chronological age on criterion or norm referenced, validated test instruments in one or more of the following areas: cognitive development, sensory motor development, fine motor skills, gross motor skills, receptive communication, expressive communication, social-affective skills, self-help skills, auditory, visual, or haptic sensory processing.
Developmentally Disabled	An individual who has a severe, chronic disability which — a. is attributable to mental or physical impairment or combination of mental and physical impairments; b. is manifested before the person attains age twenty-two; c. is likely to continue indefinitely; d. results in substantial functional limitations in three or more of the following areas of major life activity: (i) self-care, (ii) receptive and expressive language, (iii) learning, (iv) mobility, (v) self-direction, (vi) capacity for independent living, and (vii) economic self-sufficiency; and e. reflects the person's need for a combination and sequence of special, interdisciplinary, or generic care, treatment, or other services which are of lifelong or extended duration and are individually planned and coordinated (P.L. 98-527).
Director of Special Education .	The local principal administrator in the area of special education. There are specific training and certification requirements this individual shall have before he/she can be approved as a director. Some school districts or cooperative programs will have a director as well as supervisors for the various programs.
Early Childhood Education for Handicapped	An organized program of purposeful, sequential activities which are appropriate to the developmental age of the handicapped child from birth through age seven. The supplement for Early Childhood Education for Handicapped programs may be requested from the Special Education Administration Section of the Kansas State Department of Education.
Educable Mentally Retarded	An individual with mild retardation in intellectual development and adaptive behavior. The supplement on Mental Retardation programs may be requested from the

	Special Education Administration Section of the Kansas State Department of Education.
Educational Advocate	An educational advocate means a person appointed in accordance with K.A.R. 91-12-72 who is authorized to make educational decisions for a child.
Exceptional Children	Children who differ in physical, mental, social, emotional, or educational characteristics to the extent that special education services are necessary to enable them to progress toward the maximum of their abilities or capacities. This includes both handicapped and gifted children.
Full-Time Equivalent Teaching Unit	A time unit upon which reimbursement for programs is determined. One FTE equals 1,080 clock hours. Each approved paraprofessional unit shall be counted as two-fifths full-time equivalent special teacher.
Gifted	See definition for Intellectually Gifted.
Guidance and/or School Counseling Services	A related service which assists in the identification of students needing referral for special education evaluation; mainstreaming special education students into the regular educational program; and individual and group counseling/consultation with parents, teachers, and students to enhance the development of the individual.
Handicapped Children	Children who are mentally retarded, hard of hearing, deaf, speech impaired, visually impaired, seriously emotionally disturbed, crippled, or who are health impaired and by reason thereof require special education and related services. Specific learning disabilities, language impaired, severely multiply handicapped/deaf-blind are also included in this category. (As defined in Federal legislation P.L. 94-142.)
Hearing Disorder/ Impairment	A loss of auditory functions sufficiently severe to affect the individual's ability to communicate with others or to develop communicative and/or learning skills. The supplement for Language/Speech/Hearing Impaired programs may be requested from the Special Education Administration Section of the Kansas State Department of Education.
Home-based Plan	A plan for the delivery of special education services to preschool age exceptional children under which a special teacher instructs the parent or parents of an exceptional child on the means of providing educational services to the child so that the parent(s) may provide appropriate services on a daily basis.

Homebound Instruction	A plan for the delivery of educational services under which educational services are provided in the home of an exceptional child whose health problems are so serious that school attendance is impossible, or who is temporarily disabled by physical or mental illness.
Hospital Instruction	A plan for the delivery of educational services under which the educational services are provided to identified exceptional children confined to hospitals or convalescent homes for psychiatric or medical treatment.
Independent Educational Evaluation	An evaluation which is conducted by one or more qualified examiners who are not employed by the local education agency responsible for the education of the child.
Integrated Special Classroom Program	A special education program in which the exceptional child is assigned to a special class, but receives most of the academic instruction in regular classes.
Individualized Educational Program (IEP)	The individualized education program which is a written statement of the special education and related services needed by a child based on his/her current level of functioning. It assigns responsibility for the delivery of these services, sets forth the anticipated changes in the child's behavior, and describes how these changes will be measured. Parents and, when feasible, the child must be given an opportunity for active participation in its formulation.
Intellectually Gifted	Those individuals who have potential for outstanding performance by virtue of superior intellectual abilities. The intellectually gifted are those with demonstrated achievement and/or potential ability. Individuals capable of outstanding performance include both those with demonstrated achievement and those with minimal or low performance who give evidence of high potential in general intellectual ability, specific academic aptitudes, and/or creative thinking abilities. The supplement for Intellectually Gifted programs may be requested from the Special Education Administration Section of the Kansas State Department of Education.
Interlocal Agreements	Any legal entity which relates to education services and is limited to one or more of the following: special education, vocational education, career education, media services, curriculum development, and inservice training for staff programs. School districts may enter into interlocal agreements and establish a separate legal entity to provide certain educational services (K.S.A. 12-2904 and K.S.A. 72-8230).

Interrelated Service Unit	The service unit where children with similar learning characteristics and needs but from two or more categories of exceptionality are provided services in the same educational program. Instruction takes place in a multicategorical setting with a teacher trained in at least one of the exceptionalities served. Instruction focuses on the common learning characteristics or curricular needs of the students, with individual consideration for needs arising from specific categorical characteristics. (Standards specific to interrelated service units are found in the STATE APPROVAL OF SPECIAL EDUCATION PROGRAMS section of this Plan.)
Itinerant Teacher Plan	The itinerant teacher who provides direct service to learners enrolled in the regular classroom. The major role of the itinerant teacher is to provide specialized individual and small group instruction, although some time is devoted to consulting with regular teachers.
Language Disorder and/or Impairment	Children whose basic communication system — whether verbal, gestural, or vocal — evidences disorders, deviations, or general developmental needs in language, speech, fluency, or voice quality and hinders their academic learning, social adjustment, self-help skills, or communication skills. The supplement for Language/Speech/Hearing Impaired programs may be requested from the Special Education Administration Section of the Kansas State Department of Education.
Lawful Custodian	A parent or a person acting as parent or guardian. If a lawful custodian is not known or cannot be found, an agency shall cause proper proceedings to be instituted pursuant to the Kansas Code for Care of Children to determine whether a child is a child in need of care.
Least Restrictive Alternatives	Sufficient educational alternatives to meet the diverse needs of children and youth with various types and degrees of exceptionality. School districts must implement a service continuum which provides an array of placement options for exceptional learners. The total program developed by each school district or special education cooperative or in conjunction with other agency services must include a series of service levels, as needed, on a progressive scale from least to most intensive, and provide in accordance with the least restrictive environment principle.

Least Restrictive Environment	An environment in which the student can achieve the highest levels compatible with his/her capabilities. It may be an intensive level of service but should not, for reason of the exceptionality alone, remove the student completely from the mainstream of activities of his/her age peers.
Local Education Agency	A political subdivision of the state which is responsible for providing education to exceptional children, such as a school district, special education cooperative, interlocal entity, State school, or State institution.
Mandate	A legislated requirement for action. In relation to special education services, the mandate requires the provision of special education services for all exceptional children.
Medical Services for Diagnostic and Evaluation Purposes	The identification/diagnosis of medically related handicapping conditions which result in the individual's need for special education and related services.
Mentally Retarded	The limitation of mental ability which differs in both degree and quality to the extent that special assistance is necessary to aid the individual in the acquisition of understandings and skills for coping with environmental situations. An expanded definition may be found in the supplement for Mental Retardation which may be requested from the Special Education Administration Section of the Kansas State Department of Education. Each mentally retarded individual acquires a range of behaviors which he/she can use in order to perform on an independent basis in some situations, while he/she will require assistance and/or support to perform in other situations. Since mental retardation occurs on a continuum, the ability to perform independently also occurs on a continuum. The dependency levels of this continuum range from independent performance through semi-independent, semi-dependent and dependent, to totally dependent performance.
Music Therapy	A related service which utilizes music to affect the restoration and maintenance of mental and physical health; the participation in pupil assessment, goal formulation, program development, and program implementation; and the enhancement of skills in the areas of communication, social/behavioral, preacademic and academic, and perceptual motor through the music process.

Normalization	The principle of helping handicapped individuals to obtain a life experience as close to the normal as possible by making available to them patterns and conditions of everyday life.
Occupational Therapy	A related service which provides for the remediation, restoration, or compensation for functions lost through illness or injury; the adaptation or modification of materials or equipment to give a student increased independence; the prevention of initial or additional deformity or disability through early intervention and programming; and the improvement of ability to perform tasks for independent functioning when functions are impaired or lost.
Parent	Parent means a natural parent, an adoptive parent, or a stepparent.
Paraprofessional	A special teacher who is qualified to assist certificated teachers in the instruction of exceptional children as determined by standards established by the State Board of Education and who is so approved by the State Board of Education. The supplement on Paraprofessionals in Special Education programs may be requested from the Special Education Administration Section of the Kansas State Department of Education.
Parent Counseling and Training	The related service designed to assist parents in understanding the nature and implications of their child's or youth's exceptionality; to provide training in child development and management techniques for meeting the specific needs of an exceptional child or youth; and to provide information on community resources.
Person Acting as Parent	A person, other than a parent, guardian, or education advocate, who has physical and legal custody of a child, or is by law liable to maintain, care for, or support the child, or is contributing the major portion of the cost of support of the child.
Physical Therapy	A related service which provides for the assessment of children and youth whose physical handicap, motor deficit and/or developmental delay interfere with the learning processes and physical management of the school environment; the consultation and treatment of identified children and youth which may include training of developmental motor skills, ambulation and gait training, postural awareness, use of wheelchair, orthoses (braces), and other assistive devices; the adaptation or modification of materials or equipment to give a student

	increased independence; and the prevention of initial or additional deformity or disability through early intervention and programming.
Physically and Other Health Impaired	Children and youth with physical and other health impairments whose physical disabilities restrict or prevent them from experiencing meaningful/productive participation in regular educational programs without special education assistance. One or more special education services may be required to assure optimum participation in the total instructional environment. The physical and health impairments are further clarified as follows:
Physically Impaired	A severe physical disability which adversely affects a child's educational performance. The term includes impairments caused by congenital anomaly (i.e., spina bifida, absence of some member), impairments caused by disease (i.e., bone tuberculosis), and impairments from other causes (i.e., fractures, burns which cause contractures, amputation, cerebral palsy and other dystrophies and atrophies).
Other Health Impaired	Limited strength, vitality, or altertness that interferes with a child's participation in educational experiences. The term includes impairments caused by chronic or acute health problems, such as heart condition, rheumatic fever, nephritis, asthma, sickle cell anemia, hemophelia, epilepsy, lead poisoning, leukemia or diabetes. Autistic conditions which are manifested by severe communication and other developmental and educational problems are included in other health impaired. The supplement on Physically and Other Health Impaired Programs contains more information and may be requested from the Special Education Administration Section of the Kansas State Department of Education.
Preschool Age	Preschool age means birth to school age for exceptional children.
Procedural Due Process	Procedures which ensure equal educational opportunities for all children including those who are exceptional. Specifically, exceptional children and their parents are guaranteed procedural safeguards in decisions regarding identification, evaluation, and educational placement.
Public Expense	Services which are paid or otherwise provided by a local education agency with no cost to the parent.
Recreation	The related service which assesses leisure function, provides therapeutic recreation services including play,

	encourages recreation programs in school and community agencies, and instructs in leisure education.
Related Services	Those services that are required to assist an exceptional child to benefit from special education. Related services include art therapy, audiology, counseling services, dance movement therapy, medical services for diagnostic or evaluation purposes, music therapy, occupational therapy, parent counseling and training, physical therapy, school psychological services, recreation, school health services, school social work services, special education administration and supervision, special music education, speech and language services, and transportation.
Residential School	A facility which provides a total residential program of treatment and special education for exceptional children.
Resource Room Plan	A plan in which the exceptional learner is enrolled in a regular education program, but goes to a specially equipped room to receive part of his/her instruction from a special teacher. The resource room teacher is responsible not only for his/her own classroom, but also for maintaining communication with students' regular classroom teachers. Like the itinerant teacher, he/she provides both instructional and consultative services.
School Age for Exceptional Children (K.S.A. 72-962)	The age at which the local board of education provides educational services for nonexceptional children. All Kansas school districts offering kindergarten services to nonhandicapped children must offer special education services to handicapped children who have attained the age of five years on or before September 1 of the school year. Services shall be extended through the school year during which the exceptional student reaches age twenty-one or until he/she has completed a local curriculum, in accordance with the State Board of Education standards, whichever event shall first occur.
School Facility	Any setting in which instruction and school-related activities occur is considered a school facility.
School Health Services	The related services which provide for the development, maintenance, and updating of individual records on every student with system of recording for identification of major health problems; the development and implementation of a plan of care for all students with major health problems, i.e., catherization, administering of medications, changing of dressings; the liaison to the family, the physician, and other involved agencies; the promotion of wellness through health education; and the promotion of

	staff inservice education and training on special health problems.
School Psychological Services	Special services which provide consultation with other school staff in planning individual programs to meet the special needs of children as indicated by interviews, behavioral evaluations, and tests; the administration and interpretation of psychological and educational tests; the consultation with teachers and other school staff concerning child behavior, modes of learning and the development of a positive learning climate; and psychological counseling for children and parents. Supplements in each categorical area and/or on each related service area may be requested from the Special Education Administration Section of the Kansas State Department of Education.
School Residence	An individual may establish school residence as determined by the guidelines outlined in K.S.A. 72-1046. Whenever an exceptional child is educated in another district or in a special purpose school under the provisions of K.S.A. 1977 Supp. 72-967, such child shall be considered a pupil of the school district in which he/she is a legal resident.
School Social Work Services	The related services which provide for social assessment of the handicapped student; group and individual counseling with student and family; assistance with those situations in the student's living environment (home, school, community) that affect the student's adjustment in school; and the mobilization and coordination of home, school, and community resources to enable the student to receive the maximum benefit from his or her educational program. Supplements in each categorical area and/or on each related service area may be requested from the Special Education Administration Section of the Kansas State Department of Education.
School Term and School Day	For exceptional children of school age, school term and school day means the same amount of time required for regular education students as prescribed in K.S.A. 77-1106. Shorter periods of time may be prescribed for exceptional children six years of age or younger, and, on an individual basis, for those children whose physical or emotional needs, or both, are such that a shorter period is advisable. Any period of time shorter than that prescribed by statute shall be determined by the individualized education program conference team of the child and shall be included and certified in the individualized education program of the child.

Severely Multiply Handicapped/Deaf-Blind	Individuals who demonstrate severe/profound functional retardation in addition to severe sensory and/or motor disabilities, severe emotional disturbance, chronic health conditions, or severe communication disorders. The following characteristics are frequently associated with this low-incidence population; severe motor involvement; absence of feeding, dressing, grooming, and/or toileting skills; failure to imitate simple actions of others, follow simple directions, communicate, guard against common physical dangers, or interact appropriately with the physical or social environment; and stereotypic and/or self-injurious behaviors. These characteristics prohibit or severely limit successful progress in a special program designed to accommodate a single major handicap. The supplement for Severely Multiply Handicapped programs may be requested from the Special Education Administration Section of the Kansas State Department of Education.
Special Classroom Plan	An educational program in which learners are enrolled in a special classroom for instruction which meets their exceptional needs.
Special Day School Plan	A plan for the delivery of special education services under which the children are sent to a special purpose school that provides any of the following: a. specialized curricula; b. modified facilities and equipment; or c. interdisciplinary, ancillary, medical, psychiatric, or social services for exceptional children, or some combination of these services.
Special Education Action......	Any act on the part of a local education agency by which a child is — a. excluded, reassigned, or transferred from regular school classes upon the basis that the child is an exceptional child and cannot benefit from these classes; and b. placed in, transferred to or from, or denied placement in special education services. Special education action includes — a. any initiation or refusal to initiate a comprehensive evaluation to determine eligibility for special education services, and b. any change in programming which alters the type or intensity of special education services offered an exceptional child.

Special Education Cooperative Agreements	A plan whereby the boards of two or more school districts within or without the state may enter into an agreement to provide special education services *on a shared-cost basis*. In these agreements, one district shall be designated the sponsoring district; the remaining district(s) shall become participating districts. The board of education of the sponsoring district is the legal body of the cooperative under the Special Education for Exceptional Children Act for the purpose of operation and administration in providing education services. It is strongly recommended that special education cooperative be comprehensive (include a full range of services).
Special Education Instructional Materials Centers (SEIMC)	A center which provides media resources in support of special education programs. The SEIMC supplements rather than supplants the district's obligatory provision of those supplies and equipment required to meet the needs of exceptional learners. The supplement on Special Education Instructional Materials programs may be requested from the Special Education Administration Section of the Kansas State Department of Education.
Special Music Education (Adaptive Music)	A related service for exceptional students which determines and implements musical and comprehensive educational goals, adapted for equal emphasis and achieved cooperatively and simultaneously. It provides music instruction which enables the student to develop concepts and skills adapted to his/her individual functioning level through educational experiences in a musical context. Special music education programs are designed to provide assessment, plan individual goals and objectives, implement individualized instruction through adapted teaching techniques, evaluate student progress, and provide consultation for parents and other professionals.
Special Purpose School	The schools that are accredited private nonprofit corporations or foundations serving exceptional children within or without the state of Kansas or accredited State institution education programs within or without the state which serve exceptional children.
Special Teacher	a. A teacher who is employed by a school district for special education services and who is certified by the State Board of Education to instruct exceptional children. b. Special education supportive personnel certified by the State Board of Education, such as school psycholo-

	gists, school social workers, speech clinicians, audiologists, and guidance counselors. c. Special education supportive or instructional personnel, such as occupational therapists, physical therapists, work placement or rehabilitation specialists, music therapists, dance movement therapists, art therapists, and nurses who hold current certification from their respective licensing or registering agents appropriate for their special work. d. Other supportive or instructional personnel for which there is no licensing or registering agent approved on an individual basis by the Special Education Administration Section because they are employed to work with exceptional children and are recommended for such employment by their parent training institution (for example, adaptive physical education, special music education (adaptive music), perceptual motor, recreation, early childhood). e. A paraprofessional who is qualified to assist certificated teachers in the instruction of exceptional children as determined by standards established by the State Board of Education and who is so approved by the State Board of Education.
Specialized Equipment	Any unique instructional media not ordinarily available to all students, but needed by the student for learning.
Specific Learning Disability	A specific disorder in the ability to learn effectively in respect to one's own potential when presented with an appropriate regular instructional environment. The ability to learn effectively is manifested as a disorder in an individual's ability to receive, organize, or express information relevant to school functioning, and is demonstrated by a significant discrepancy between an individual's general intellectual functioning and achievement in one or more of the following areas: preacademic skills, oral expression, listening comprehension, written expression, basic reading skills, reading comprehension, mathematics calculation, and mathematics reasoning. Learning disabilities do not include learning problems which are due primarily to vision, hearing, or motor impairments; mental retardation; emotional disturbance; environmental, cultural, or economic disadvantage; or a history of an inconsistent education program. The supplement for Specific Learning Disabilities program may be requested from the Special Education Administration Section of the Kansas State Department of Education.

Speech and Language Services	The services which provide for the identification of students with speech and language disorders; the diagnosis and appraisal of specific speech and language disorders; the referral for medical or other professional attention necessary for the habilitation of speech or language disorders; the provisions of speech and language services for the habilitation or prevention of communicative disorders; and the counseling and guidance of parents, students, and teachers regarding speech and language disorders. The supplement on Speech and Language Programs may be requested from the Special Education Administration Section of the Kansas State Department of Education.
Sponsoring District	The district serving as the administrative unit in a special education cooperative agreement.
State Institutions	Topeka State Hospital, Osawatomie State Hospital, Larned State Hospital, Rainbow Mental Health Facility, Parsons State Hospital and Training Center, Winfield State Hospital and Training Center, the Youth Center at Atchison, Kansas Neurological Institute, the Youth Center at Topeka, the Youth Center at Beloit, Kansas State School for the Deaf, and Kansas State School for the Visually Handicapped.
State Plan	A framework of operation which includes rules and regulations for the establishment, maintenance, and supervision of special education services in school districts and State institutions; standards for screening, diagnosis, and placement of exceptional children; and standards for program approval. The State Plan for special education services is authorized by K.S.A. 72-963 of the Special Education Act.
State Special Education Advisory Council	A lay and professional advisory council consisting of nine members appointed by the State Board of Education for a term not to exceed two full terms (three years per term). This council offers advice, consultation, and recommendations to the State Board of Education on matters concerning special services for exceptional children.
Supervisor	An individual who supervises and coordinates the activities of an area of special education. This person is usually directly responsible to the director of special education and is actively engaged in curriculum development and supervision of instruction.

Trainable Mentally Retarded	An individual with moderate retardation in intellectual development and adaptive behavior. Supplements in each categorical area may be requested from the Special Education Administration Section of the Kansas State Department of Education.
Transition	An outcome-oriented process which encompasses a broad array of services and experiences that lead to employment (U.S. Office of Education, 1984). For special education services, transition includes those services provided to the student until he or she graduates or through age twenty-one.
Transportation	As related to exceptional children, transportation includes traveling to and from school, between schools, and around school buildings. Specialized equipment may include special or adapted buses, lifts, and ramps.
Visual Impairment	Limited vision that interferes with educational and/or developmental progress. Two divisions for the visually impaired can be made.
Partially Seeing	Those individuals whose visual limitation constitutes an educational handicap, but who are able to use print as their primary educational medium.
Blind	Those individuals who must depend primarily upon tactile and auditory mediums for their education. The group may include individuals who have some residual vision, but whose vision loss is so severe that, for educational purposes, print cannot be used as the major medium of learning. The supplement for Visual Impairment program may be requested from the Special Education Administration Section of the Kansas State Department of Education.
Vocational Training	Instruction which prepares handicapped individuals for paid or unpaid employment, or which provides additional preparation for a career requiring other than a baccalaureate or advanced degree.
Youth Center School	A school that is operated at a state youth center to provide education services to youths admitted to the institution.

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* Major headings and subheadings as listed in the Table of Contents.

** Supplements for all categorized program areas and all related service areas are available from the Special Education Administration Section of the Kansas State Department of Education.

CHART I
Maximum Caseload by Delivery Model, 1989-1990

	Int GIR	Hearing Impaired	EMH*	TMH**	BD	SMH/DB	SLD	PI, VI	Speech/ Language	Autistic	ECH
Administrative Plan											
ITINERANT w/0 para	25	15	Primary - 12 Intermediate/ secondary - 15	----	15	----	18	Determined by need	25 - 55 (Based on severity rating)	----	----
w/1 FTE para	30	18	Primary - 15 Intermediate/ secondary - 20 (With one FTE curriculum or work specialist)	----	18	----	24	Determined by need	----	----	----
RESOURCE w/0 para	35	As needed	Primary - 12 Intermediate/ secondary - 15	----	12 (8 at one time)	----	18 (10 at one time)	Determined by need	15 - 25 (Based on severity rating)	----	----
w/1 or more FTE para(s)	40	----	Primary - 15 Intermediate - 18 Secondary - 20	---- ---- ----	16	----	22	Determined by need	----	----	----
SPECIAL CLASSROOM w/0 para	20	Preschool/ primary/ elementary - 8 Intermediate/ secondary - 8	Primary - 12 Intermediate/ secondary - 15	Primary - 8 Intermediate - 10 Secondary - 12	8 (35 Departmentalized)*	1	10	Determined by need	10	1	8
w/1 or more FTE para(s)	25	Preschool/ primary/ elementary - 9 Intermediate/ secondary - 11	Primary - 15 Intermediate - 18 Secondary - 20	Primary - 11 Intermediate - 13 Secondary - 15	10 (45 Departmentalized)*	2 - 4	14	Determined by need	15	2 - 3	12 (See ECH Section)
w/2 FTE paras	----	----	----	----	----	5 - 8	----	Determined by need	----	4 - 6	----
		(Age span not to exceed 3 years)	(Chronological age or grade span for EMH, TMH, and BD not to exceed 4 years at one time)								

* Programs are departmentalized by curricular content area. (Class size is 8, 9 w/ 1 FTE para)

For interrelated programs the class size and caseload shall not exceed the highest maximum enrollment for any of the categorical groups of students served in the delivery model being used, unless there are 4 or more students from a more restricted category. In this case, the more restrictive class size/caseload shall be used.

Source: K.A.R. Article 12

Approved 5/10/88

GOALS FOR FY 1989 KANSAS STATE BOARD OF EDUCATION

The following improvement and development goals are adopted from *A Three-Year Plan -- Fiscal Years 1989-1991* and the *State Department of Education Plan for Implementing the FY 1989 Goals.*

The State Board and Department of Education will endeavor —

IMPROVEMENT GOALS

A 1.0 — To develop, strengthen, and extend state systems which support excellence in the curriculum and instruction programs of local education agencies

A 2.0 — To develop, strengthen, and extend excellence in vocational and career education programs and improve transitions within and among education and training systems and institutions

A 3.0 — To support and extend excellence in the preservice and inservice training of educational personnel

A 4.0 — To provide leadership in the use of information technologies for improving and extending educational programs

A 5.0 — To continue efforts to overcome barriers which limit the educational development of special populations not currently achieving their potential

A 6.0 — To work with school districts, state institutions, parents, and other citizens in extending support and financing for Kansas schools

DEVELOPMENT GOALS

B 1.0 — To identify the learning needs of populations not currently being served by schools and assess the feasibility of extended programs in local communities

B 2.0 — To improve and extend support for vocational and career education programs

B 3.0 — To conduct a study for developing a performance-based measure for the evaluation of teacher/administrator training programs and certification

B 4.0 — To demonstrate the use of information technologies by extending opportunities for networking and developing alternative learning systems

B 5.0 — To develop affirmative programs for overcoming past barriers for equal opportunity on the basis of race, sex, national origin, geographic location, age, socioeconomic status, or handicapping condition

B 6.0 — To identify methods of increasing resources for local schools and education programs